

### **Public Comment Analysis**

Date: February 24, 2015

Topic: The Proposed Opening and Co-Location of The Bronx Charter School for Better Learning II (84XTBD) with J.H.S. 144 Michelangelo (11X144) and Pelham Gardens Middle School (11X566) in Building X144, Beginning in the 2015-2016 School Year

Date of Panel Vote: February 25, 2015

### **Summary of Proposal**

In an Educational Impact Statement (“EIS”) and Building Utilization Plan (“BUP”) posted on January 8, 2015, the New York City Department of Education (“DOE”) proposed to open and co-locate the Bronx Charter School for Better Learning II (84XTBD, “BBL II”) in building X144 (“X144”), located at 2545 Gunther Avenue, Bronx, NY 10469 in Community School District 11 (“District 11”), beginning in the 2015-2016 school year. If this proposal is approved, BBL II will be co-located in building X144 with J.H.S. 144 Michelangelo (11X144, “J.H.S. 144”) and Pelham Gardens Middle School (11X566, “Pelham Gardens”), which are both existing zoned district middle schools that serve students in sixth through eighth grades. BBL II is a new public charter school that will serve students in kindergarten through fifth grade. A “co-location” means that two or more school organizations are located in the same building and may share common spaces like auditoriums, gymnasiums, and cafeterias.

Pursuant to recent amendments to the Education Law, which provide certain new and expanding charter schools with access to facilities, BBL II requested co-located space within a DOE facility. BBL II is a replication of the Bronx Charter School for Better Learning (84X718, “BBL”), an existing public charter school located in District 11 in the X111 building, located at 3740 Baychester Avenue, Bronx, NY 10466. BBL serves students in kindergarten through fifth grades, and the majority of these students reside in District 11. BBL performs well in comparison to schools within the Bronx and across New York City. In the 2013-2014 school year, BBL ranked in the 81st percentile for Citywide and 96th percentile for District-wide English Language Arts (“ELA”) proficiency scores. In the 2013-2014 school year, BBL ranked in the 87th percentile for Citywide and 91st percentile for District-wide math proficiency scores. Given BBL’s record of success and the need for additional elementary school seats in the Bronx resulting from kindergarten and elementary school enrollment growth, the DOE supports the placement of BBL II in District 11.

BBL II has been authorized by the State University of New York Trustees (“SUNY”) to serve students in kindergarten through fourth grade with the plan to grow through fifth grade following its first charter renewal. If this proposal is approved, beginning in the 2015-2016 school year, BBL II will serve approximately 70-80 kindergarten students, and it will add one grade each school year thereafter until it reaches its full grade span of kindergarten through fifth grades in 2020-2021. At that time, BBL II will serve 420-480 students in kindergarten through fifth grades.

According to the 2013-2014 Enrollment, Capacity, Utilization, Report (the “Blue Book”), building X144 has a target capacity of 1,534 students. During the 2014-2015 school year, the building serves a total of approximately 1,025 students, yielding a building utilization rate of approximately 67%. According to the Under-utilized Space Memorandum, building X144 is “under-utilized” and has space to accommodate

additional students. If this proposal is approved, BBL II, J.H.S 144, and Pelham Gardens will collectively serve between 1,380 and 1,500 students in the X144 building in 2020-2021, which yields a projected utilization rate of approximately 90% - 98%. As discussed in the EIS and BUP for this proposal, all three schools will receive their baseline space allocations pursuant to the Citywide Instructional Footprint (“the Footprint”) over the course of the proposal’s implementation.

The details of this proposal have been released in an EIS and BUP, which can be accessed online at: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2014-2015/February2015SchoolProposals>.

Copies of the EIS and BUP are also available in the main offices of J.H.S. 144 and Pelham Gardens.

### **Summary of Comments Received at the Joint Public Hearing**

A Joint Public Hearing regarding this proposal was held at building X144 on February 9, 2015. At that hearing, interested parties had the opportunity to provide input on the proposal. Approximately 60 members of the public attended the hearing, and approximately 14 people spoke. Present at the hearing were: Maria Lopez, District 11 Community Superintendent; Denise Williams, Principal of Pelham Gardens; Pelham Gardens School Leadership Team (“SLT”) Member Joseph Biernot; J.H.S. 144 SLT Members and Assistant Principals Ellen Barrett and Ted Rivera; Kevin Brennan, Executive Director of BBL, Shubert Jacobs, Principal of BBL and Nysheria Sims, Assistant Principal of BBL. Ashley Davies, Jonathan Geis, and Jyoti Folch from the DOE’s Office of District Planning were also present.<sup>1</sup>

#### **The following questions, comments and remarks were made at the Joint Public Hearing**

1. All commenters at the hearing expressed support for the proposal.
  - a. Many commenters spoke to the quality of BBL when expressing their support for the opening and co-location of BBL II.

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

The DOE received 127 emails through the dedicated email address for this proposal. Of the 127 comments received via email, 125 were in support of the proposal. The DOE also received 20 comments through the dedicated phone line for this proposal.

#### **The following comments were submitted through the dedicated email address<sup>2</sup> and phone line**

2. Two commenters expressed opposition to co-locating a third school with the two schools in the X144 building due to concerns about overcrowding.
  - a. One commenter expressed concerns about too many students in the building leading to unsafe conditions.
  - b. One commenter expressed concerns that the co-location would lead to distractions.

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<sup>1</sup> Community Education Council 11 was invited to attend the joint public hearing but did not appear. Additional information on this point is available in the response to [comment 5](#) below.

<sup>2</sup> While not directly related to the substance of the proposal, note that emails were also exchanged with CEC 11 regarding various procedural issues, such as requesting re-scheduling of the Joint Public Hearing. This issue is reflected in [comment 5](#) below and its corresponding response.

3. All other comments submitted through the dedicated email address and phone line were in support of the proposal.
  - a. Many commenters noted the importance of choice within the community.

### **Summary of Issues Raised to DOE Representatives at Public Meetings**

Representatives from the Office of District Planning attended two public meetings between the time the proposal was posted on January 8, 2015 and the posting of this Public Comment Analysis. The first was a CEC 11 meeting on January 20, 2015. The second was Community Board 11's Education, Culture & Youth Services Committee Meeting on February 17, 2015.

At the CEC 11 meeting, concerns were raised about the proposal. The following comments were made:

4. A CEC member stated that the CEC was not invited to the walkthrough of building X144 for this proposal.
5. CEC members commented that they could not attend the Joint Public Hearing.
6. CEC members stated there is a need for middle school seats in District 11.
7. One CEC member stated that BBL II should be placed in new building X311.
8. One CEC member stated that opening a charter could be in violation of a NY State Law that covers special education and District 75 students.
9. One CEC member stated that charter schools have funding and should not take space and funding from the DOE.

At the meeting on January 20, 2015, the CEC also approved a resolution in opposition to the proposal, titled "Resolution # 7 - Opposition to Bronx Charter School for Better Learning II proposed Co-location into building X144 beginning in 2015-2016." Concerns raised in the resolution are as follows:

10. The CEC believes placing an additional school into the X144 building will reduce instructional space for both J.H.S. 144 and Pelham Gardens, creating an undue hardship to current students which may impede student progress, particularly at J.H.S. 144 since the State Department of Education ("SED") gave the school a "Focus" accountability status in 2014-15.
11. Community Education Council District 11 noted that they would like to utilize the space at the 11X144 campus to eradicate the use of trailers in District 11, and/or relocate the D75 students housed in the mini building located behind the 11X189 campus.

As mentioned, representatives from the Office of District Planning attended Community Board 11's Education, Culture & Youth Services Committee Meeting on February 17, 2015. The Community Board Members asked questions about the proposal, which were directed to both the Executive Director of the Bronx Charter School for Better Learning and the Office of District Planning Representatives. The following questions and comments were raised:

12. One member asked what BBL II's lottery preferences would be.
13. One member asked if BBL II will serve students from the community.
14. One member expressed concern about co-locating elementary school students with middle school students.
15. One member asked about the space allocations for the schools if the proposal is approved.
16. The Community Board made a motion to vote in favor of this proposal to open and co-locate BBL II in building X144. All members present voted in favor.

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

- Comments 1, 1(a.), 3, (a.), and 16 are in support of this proposal and therefore do not require a response.

One commenter in support of the proposal mistakenly referred to the proposal as an expansion of BBL to serve middle school grades. This is incorrect. BBL II will be a new public charter school that serves students in kindergarten through fifth grade. BBL II will be a replica of BBL.

- Comments 2, 2(b.), and 10 pertain to concerns about the impact of the co-location as it relates to space and overcrowding. There are currently hundreds of schools in buildings across the city that are co-located.

If this proposal is approved, there will be sufficient space to accommodate all schools in the X144 building pursuant to the Citywide Instructional Footprint (the “Footprint”) throughout the course of the proposal. Each school will receive its respective equitable allocation of space pursuant to the Footprint. The Footprint, which guides space allocation and use in City Schools, is available online at: [http://schools.nyc.gov/NR/rdonlyres/961D691C-641D-4918-9798-8BA2C0A761FF/0/DOEFootprint\\_91114newlogo.pdf](http://schools.nyc.gov/NR/rdonlyres/961D691C-641D-4918-9798-8BA2C0A761FF/0/DOEFootprint_91114newlogo.pdf).

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 and number of classes per grade. For existing schools, the Footprint is applied to the current number of sections per grade, assuming class size will remain constant. The Borough Director of Space Planning then confirms both the baseline and current space allocation totals during a walk-through of the building, where he/she is accompanied by a school’s representative.

If this proposal is approved, in 2020-2021, once BBL II has reached full scale, the projected utilization for building X144 is approximately 90% - 98%. This indicates that the X144 building has sufficient capacity to accommodate J.H.S. 144, Pelham Gardens, and BBL II at full scale.

Comments 2(b.) and 10 express concern about the co-location having adverse effects on students, including causing distractions and impeding progress.

The proposed co-location of BBL II is not expected to impact the admissions, enrollment, educational programming, or educational options of students currently attending J.H.S. 144 and Pelham Gardens. J.H.S. 144 and Pelham Gardens will also continue to offer extra-curricular programming based on student interests, available resources, and staff support for those programs. The proposed co-location is not expected to impact those opportunities. Students will continue to have the opportunity to participate in a variety of extra-curricular programs, but the proposed co-location may change the way those programs are configured. For example, some activities may need to share classroom space or the scheduling of these activities may change as a result of greater demands on the available space during or after school hours.

In addition, as mentioned, there are currently hundreds of DOE schools that are co-located. Each school in X144 will receive its equitable allocation of space per the Footprint. If the proposed co-location is approved by the PEP, the Building Council, consisting of principals from all co-located schools, is encouraged and empowered to work together, and with the Office of Space Planning, to determine a shared space plan that minimizes the disruption to the schools and the current use of shared spaces. Specific decisions regarding the allocation of the shared spaces will continue to be made by the Building Council in conjunction with the DOE's Office of Space Planning. In any building where more than one school is co-located, the Building Council meets regularly to address issues related to space allocations, shared space usage, and space issues. Additionally, a Shared Space Committee meets a minimum of four times a year and reports back to the Building Council regarding shared space questions. School leaders should utilize Campus Policy Memo as a resource for sharing space, which is available at: <http://schools.nyc.gov/community/campusgov>.

The DOE supports the schools in the X144 building in their efforts to improve. The DOE does not anticipate that this proposal will limit their ability to do so.

- Comment 2(a.) and 14 express concern about school safety.

Comment 14 notes specific concern about co-locating elementary school students with middle school students. Due to space limitations, it is not unusual for varying grade levels to be co-located in a building together. There are successful examples of mixed grade co-located school building or campuses in New York City. These examples include:

- Building 166 in District 9 which currently houses three schools: Grant Avenue Elementary School (09X449), which serves students in grades K-5; Science and Technology Academy: A Mott Hall School (09X454), which serves students in grades 6-8; and Bronx Early College Academy for Teaching & Learning (09X324), which serves students in grades 6-12.
- Building X193 in District 12 which currently houses three schools: P.S. 211 (12X211), which serves students in grades K-8; I.S. 318 Math, Science and Technology Through the Arts (12X318), which serves students in grades 6-8; and Children's Aid College Prep Charter School (84X124), which currently serves students in grades K-2.
- Building X026 in District 10 which currently houses two schools and a D75 program: M.S. 390 (10X390), which currently serves students in grades 6-8; P.S. 396 (10X396), which serves students in grades K-5; and P.S. X010, a D75 program which serves students in grades K-5.

Pursuant to Chancellor's Regulation A-414, every school/campus is mandated to form a School Safety Committee, which is responsible for developing a comprehensive School Safety Plan that defines the normal operations of the site and what procedures are in place in the event of an emergency. The School Safety Plan is updated annually by the Committee to meet changing security needs, changes in organization and building conditions, and any other factors. Updates can also be made at any other time if it is necessary to address security concerns. The Committee will also address safety matters on an ongoing basis and make appropriate recommendations to the principal(s) when it identifies the need for additional security measures.

The Office of School and Youth Development ("OSYD") supports schools in maintaining a safe, orderly, and supportive school environment. We encourage all schools, including those in X144, to

seek support from OSYD to address any issues involving safety and security. School Safety Agents (“SSAs”) are allocated to schools based on each building’s projected enrollment. The NYPD’s School Safety Division looks at a set of variables to determine the number of SSAs to deploy to a particular school building, including the crime rate, size and design of the building, enrollment, and grade span.

- Comment 4 asserts that the CEC was not invited to the Senior Leadership walkthrough of building X144, which was held on November 17, 2014 as part of the DOE’s engagement opportunities for potential proposals that involve new co-locations.

The purpose of the walkthrough is to discuss the potential proposal, take questions and concerns from both school communities, and determine whether significant logistical or other concerns would prevent the implementation of this proposal if approved by the PEP. The assertion that the CEC was not invited to the walkthrough is untrue. CEC President Pamela Johnson received an invite to the walkthrough on Thursday, November 13, 2014 from the DOE’s Office of Family and Community Engagement, which solicited representation from a member of the Council.

- Comment 5 states that members of the CEC were unable to attend the Joint Public Hearing for the proposal.

On December 19, 2014, the DOE sent out a scheduling email to the principals in the X144 building and CEC 11 to solicit availability for the potential Joint Public Hearing within the timeframe mandated by law (pursuant to Chancellor’s Regulation A-190) between the posting of the proposal and the PEP meeting. The CEC did not provide a substantive response to the DOE’s scheduling email when requested in December 2014; the proposal posted on January 8, 2015 with a Joint Public Hearing scheduled for February 9, 2015 based on the availability of responding parties, including both school communities. The scheduling email explicitly stated that non-responses would be taken as confirmations of availability.

The DOE worked to accommodate the CEC’s schedule previously, which included moving the proposal from the January PEP agenda to the February PEP agenda to allow for additional time for community feedback and for representatives from the Office of District Planning to attend the CEC’s meeting on January 20, 2015 to speak about the proposal and the work of the Office of District Planning.<sup>3</sup>

In light of the fact that school communities had been planning on the February 9th date for the Joint Public Hearing, as well as the DOE’s limited ability to reschedule the hearing due to schools being closed for midwinter recess from February 16-20, 2015, the DOE felt that maintaining the agreed upon date of February 9th was most likely to maximize community participation in the Joint Public Hearing.

- Comment 6 asserts that there is a need for more middle school seats in District 11.

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<sup>3</sup> The CEC noted their dissatisfaction with a lack of handouts at this meeting; however, the Office of District Planning does not typically provide handouts for this type of presentation.

There is currently an excess of middle school seats in District 11. In 2014-2015, there are approximately 9,681 students enrolled in District 11 middle schools. There are approximately 11,201 total middle school seats in District 11, meaning there is an excess of 1,520 middle school seats.

- Comment 7 asserts that BBL II should be placed in the new building X311, located at 1684 White Plains Road, Bronx, NY 10462.

Building X311 is relatively small in size and is not a feasible siting option because it does not have sufficient space to accommodate BBL II, per the Footprint. Building X311 was intended to open to address crowding issues in the southern portion of District 11, which is in a different part of the district than building X144.

- Comment 8 asserts that opening a charter could be in violation of a NY State Law that covers special education and District 75 students.

The state Charter Schools Act requires that charter schools demonstrate good faith efforts to attract and retain ELLs, students with disabilities, and students eligible for free or reduced lunch at rates comparable to those of the Community School District as determined by SED. BBL II plans to comply with this law.

- Comment 9 asserts that charter schools should not require space and funding from the DOE.

Recent amendments to the New York State Education Law provide certain new and expanding charter schools with access to facilities or facilities assistance. BBL II requested co-located space within a DOE facility. Pursuant to the Education Law, the DOE explored siting options in response to BBL II's request, which resulted in the proposal to open and co-location BBL II in X144.

- Comment 11 suggests that X144 should be used to re-locate the D75 program in transportable classroom units ("TCUs") behind the X189 building in District 11 or to eradicate the TCUs in District 11.

The D75 program located near the X189 campus is located in a mini building, not a transportable class room unit. The DOE has made a commitment to remove transportable classroom units, but the D75 program mentioned is not located in a TCU.

- Comment 12 asks about BBL II's lottery preferences.

BBL II will provide a lottery preference to returning BBL II students, siblings of students attending BBL II, and students residing in District 11.

- Comment 13 pertains to whether BBL II will serve students from the community.

If this proposal is approved, elementary-age students in District 11 will have the opportunity to enter the charter application lottery process, starting in the Spring 2015, to enroll in BBL II for the following 2015-2016 school year. As mentioned, BBL II will provide a lottery preference to returning students, siblings of students attending BBL II, and students residing in District 11.

BBL II is a replica of BBL, an existing public charter school located in District 11 in the X111 building, located at 3740 Baychester Avenue, Bronx, NY 10466. The majority of BBL's students reside in District 11. Historically, BBL has maintained a sizeable waitlist; in the 2014-2015 school year, BBL received over 2,300 student applications for approximately 54 seats. Assuming demand for BBL II is similar to the demand for BBL, it is likely that BBL II will serve students mostly from District 11, since this is one of its lottery preferences.

- Comment 15 asks about the space allocations for J.H.S. 144, Pelham Gardens, and BBL II if the proposal is approved. Detailed information on the space allocations for each school in the X144 building is available in the Building Utilization Plan that accompanies the Educational Impact Statement for this proposal. These documents are available online at: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2014-2015/February2015SchoolProposals> and in the main offices of J.H.S. 144 and Pelham Gardens. As mentioned, each school will receive its respective allocation of space pursuant to the Footprint.

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

No changes have been made to this proposal.