



Public Comment Analysis

Date: February 8, 2012

Topic: The Proposed Phase-out of Legacy School for Integrated Studies (02M429) in Building M883 Beginning in 2012-2013

Date of Panel Vote: February 9, 2012

Summary of Proposal

The New York City Department of Education (“DOE”) is proposing to phase out Legacy School for Integrated Studies (02M429, “Legacy”), an existing high school in building M883 located at 34 West 14th Street, New York, NY 10011, within the geographical confines of Community School District 2. It currently serves students in grades nine through twelve. The DOE is proposing to phase out Legacy based on its poor performance and the DOE’s assessment that the school lacks the capacity to turn around quickly to better support student needs.

If this proposal is approved, Legacy will no longer admit new ninth-grade students after the conclusion of the 2011-2012 school year. The school will continue to phase out one grade level at a time until it closes following the 2014-2015 school year. Current students will be supported as they progress towards graduation while remaining enrolled at Legacy. In cases where students do not complete graduation requirements by June 2015, the DOE will help students and families identify alternative programs or schools that meet students’ needs so that they may continue their education after Legacy completes phasing out.

Legacy is co-located with a District 75 school’s inclusion program, P721M@M883 (75M721, “P721M@M883”), which is one site of a multi-site District 75 school, P721M (“75M721”) and serves 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.

75M721 is an existing District 75 school that serves a combined total of 213 students in ninth through twelfth grades during the 2011-2012 school year. 75M721 currently has five sites in Manhattan, including P721M@M883. P721M@M883 serves 10 high school-aged students with a range of disabilities. Students are placed in District 75 programs based on their individual needs and recommended special education services. P721M@M883 is a District 75 inclusion program. In an inclusion program, a student with special education needs receives services in a general education classroom along with general education students. P721M@M883 is associated with Legacy, meaning that students are enrolled in Legacy general education classes based on

their Individualized Education Program (“IEP”) recommendations and receive Special Education Teacher Support Services (“SETSS”).

Legacy serves 313 students in ninth through twelfth grades. It admits students in ninth and tenth grades through the Citywide High School Admissions Process. Additional information about the High School Admissions Process is described on the DOE’s Web site:

<http://schools.nyc.gov/ChoicesEnrollment/High/default.htm>.

If this proposal is approved, Legacy will begin phasing out one grade at a time beginning in September 2012, and complete its phase-out after the 2014-2015 school year. In another EIS, the DOE is proposing to open a new high school, 02M534 (“New School”), in building M883 in September 2012. The proposal can be found at:

<http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2011-2012/Feb2012Proposals>. This school will continue growing to full-scale as Legacy phases out. The New School will open in September 2012 with ninth grade, adding one grade annually and reaching full scale in the 2015-2016 school year with a grade span of nine through twelve.

If both of these proposals are approved, beginning in 2012-2013, the P721M@M883 inclusion program currently associated with Legacy would continue to exist with respect to current students as Legacy phases out. P721M@M883 would also be associated with New School as it phases in, so that M883 will continue to host a high school inclusion program.

The details of this phase-out proposal have been released in an Educational Impact Statement (“EIS”) which can be accessed here:

<http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2011-2012/Feb2012Proposals>.

Copies of the EIS are also available in the main offices of Legacy and P721M@M883.

I. Summary of Comments Received at the Joint Public Hearing

A joint public hearing regarding this proposal was held at building M883 on February 1, 2012. At that hearing, interested parties had an opportunity to provide input on the proposal. Approximately 200 members of the public attended the hearing, and 35 people spoke. Present at the meeting were Deputy Chancellor Marc Sternberg; Manhattan High Schools Superintendent Tamika Matheson; District 2 Community Education Council (“CEC 2”) Representative Tamara Rowe; CEC 2 Representative Elizabeth Weiss; Legacy Principal Joan Mosely; Legacy School Leadership Team (“SLT”) Representative and Citywide Council for High Schools (“CCHS”) Representative Juan Pagan; Legacy SLT Representative Justin Watson; Legacy SLT Representative Angielina Reyes; Legacy SLT Representative Debbe Cordts; Legacy SLT Representative Zacarias Rivera; Legacy SLT Representative Camille Kinlock; Legacy SLT Representative Harry Rivas; Legacy SLT Representative and Student Body President Keyla Marte; P721M Principal Antoinette Bello; CCHS Representative Martin Krongold; CCHS Representative Stanley Ng; Manhattan High Schools President’s Council Representative Carlos Ruiz; Yareni Sanchez, a representative of New York City Council Speaker Christine Quinn; and Alec Schierenbeck, a representative of Manhattan Borough President Scott Stringer.

The following comments and remarks were made at the joint public hearing on February 1, 2012:

1. Multiple commenters raised concerns about the high percentage of students with special needs enrolled at Legacy.
2. Multiple commenters raised concerns about the unequal distribution of students with special needs; to wit, some schools bear a disproportionate burden of students with special needs while other schools (in particular new, small schools) serve a much smaller percentage of students with special needs.
3. Multiple commenters questioned the composition of the peer group to which Legacy's performance is indexed in the progress report, specifically questioning whether Legacy's peer schools serve the same percentage of special needs students.
4. One commenter asked how many schools in Legacy's peer group are proposed for phase-out.
5. Multiple commenters noted that Legacy has seen several changes in recent years and they asserted that the school needs more time for those changes (particularly the change in administration) to improve the school's performance.
6. Multiple commenters stated that the DOE violated Chancellor's Regulation A-660 by failing to notify or invite Legacy's school leadership team to the first pre-engagement meeting regarding the potential phase-out of Legacy.
7. Multiple commenters voiced concerns that the DOE does not take parent and community engagement seriously and does not develop policies in cooperation with school communities.
8. Multiple commenters expressed concerns that the DOE phase-out proposals target minority populations, vulnerable families, students with special needs, English Language Learners, and poor students.
9. Multiple commenters stated that Legacy is struggling because of budget cuts and a lack of supports, and if the school were to receive more resources it could improve its performance.
10. Multiple commenters voiced concern that progress report data for Legacy is unavailable prior to 2007, saying that the decision to phase out Legacy is based on data from only the past four years.
11. Multiple commenters noted that some schools that were founded to replace phase-out schools have now themselves been proposed for phase-out.
12. One commenter asked how many new schools have failed.
13. Several commenters expressed concern about the DOE's policy of phasing out underperforming schools, claiming that the school system is not the place for experimentation.
14. Multiple commenters noted the positive environment at Legacy, stating that Legacy is a uniquely welcoming school.
15. One commenter asserted that closing schools forces good teachers out of the public school system and into private schools.
16. Multiple commenters noted recent improvements at Legacy.
17. Multiple commenters noted that, over the course of Legacy's history, the school has encountered many challenges that have served as impediments to success.
18. One commenter noted that Legacy's attendance rate does not take into account that many students are in between homes, living in shelters, without a primary caregiver or have an incarcerated parent.
19. Multiple commenters voiced their support for the faculty and staff at Legacy, noting the impact that teachers have on their students.

20. One commenter asserted that the DOE's data is inaccurate.
21. One commenter noted the DOE's strategy of replacing large schools with multiple small schools and asked why the DOE would not work with Legacy since it is already a small school.
22. One commenter asked how the DOE goes about closing and improving schools.
23. Multiple commenters asked what will happen to students enrolled in Legacy as it phases out.
24. One commenter asked why the DOE compares Legacy's graduation rate to the city average.
25. One commenter asked whether the newly released Regent's test scores are counted.
26. One commenter noted that Legacy staff learned about global warming and developing critical thinkers during staff development training.
27. One commenter noted several points about Legacy's history:
 - a. The school was supposed to take students from Districts 4 and 5, and was supposed to move to 67th Street, but never did.
 - b. On the first day of school, there was an asbestos crisis and the school had to move to the National Guard Armory on 14th Street. There were many challenges such as no chalkboards, walls painted in camouflage, and many fights broke out. Water pipes froze and burst in the 1990s, flooding the school.
28. One commenter noted that Legacy's middle school grades were phased out long ago; however, the high school students still served at the school have benefited from an education at Legacy, which is illustrated by the fact that they are already leaders.
29. One commenter asserted that the DOE is calling Legacy's teachers inept and its principal unable.
30. Multiple commenters asserted that the Panel on Education Policy vote is a rubber stamp and that this decision has already been made.
31. Multiple commenters commended the efforts of the students' advocacy efforts and presentations at the hearing.
32. One commenter asserted that this is about racism, classism, real estate, and privatization.

II. Summary of Issues Raised at the Hearing Not Related to the Proposal

33. One commenter asserted that the DOE sees the school's building as prime real estate.
34. One commenter asserted that when the Mayor is gone, the next mayor will throw all uses of data out the window, because the use of data will be associated with the DOE's abuse of data. This means any advantageous use of data will be eliminated as well.
35. One commenter asserted that the DOE is avoiding responsibility.
36. One commenter asserted that the Deputy Chancellor is merely a puppet to the DOE.
37. One commenter asserted that every time the DOE closes a school and starts new one, the DOE claims that it serves similar students. The only reason the DOE closes schools is so they no longer have to count the school in statistics. The DOE closes schools with the worst statistics to improve their statistics.

III. Summary of Issues Raised in Written and Oral Comments Submitted to the DOE Regarding the Proposal

The DOE received one letter and nine telephone calls regarding the proposal.

38. Speaker Christine Quinn, Manhattan Borough President Scott Stringer, U.S. Representative Jerrold Nadler, New York State Senator Thomas Duane, and New York State Assembly Member Deborah Glick asserted in a joint letter that:
- a. The DOE should reconsider its proposal to phase-out Legacy because the school community has made gains in improving the school.
 - b. Legacy has experienced safety incidents that negatively impacted the learning environment.
 - c. Principal Joan Mosley has made significant gains in increasing school safety, but has not been given enough time to make other improvements.
 - d. Legacy is actively working toward improving its graduation and college enrollment rates as evidenced by the school’s partnership with programs like ENACT and college-readiness programs.
39. Multiple commenters asserted the school should stay open because it is struggling only as a result of budget cuts and lack of support; despite this, the school has improved significantly. The school is like a home for its students.
40. Multiple commenters asserted that the policy of closing schools does not benefit the community, which can be seen in the fact that only 13% of Black and Hispanic students in the city are college-ready. There are better ways to improve schools than by closing them.
41. Multiple commenters asserted that the DOE is not listening to the community about its opposition to phasing out the school, though it needs to.
42. Class Size Matters (“CSM”), submitted written comments objecting to all phase-outs and truncations proposed by the DOE. In opposing the DOE’s proposal to phase-out and eventually close these schools, the CSM comments cited the following reasons:
- a. None of the Educational Impact Statements for the proposals include discussion of how the proposed phase-outs or, where applicable, the co-locations would affect class size;
 - b. The Citywide Instructional Footprint does not include class size standards;
 - c. The Educational Impact Statements use utilization figures from the DOE’s Blue Book, which does not take into account the need to reduce class sizes in schools Citywide;
 - d. The community members, faculty, and families of schools that have been proposed for phase-out have opposed the proposed phase-outs and truncations;
 - e. The schools that have been proposed for phase-out and/or truncation have high concentrations of “at-risk” students, as defined as English Language Learner students, students with disabilities, and economically disadvantaged students.

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

Comments 1, 2, and 3 relate to the percentage of special needs students at Legacy, and how this affects the composition of the peer group to which Legacy’s performance is indexed in the progress report. In New York City, high school admission is based on a Citywide choice process, with students ranking up to 12 high school programs in order of preference. High school students with IEPs are admitted in the same manner as general education students. ELL students are admitted to high schools in the same manner as their non-ELL peers. The DOE does not

guide students into certain schools based on whether they are part of a particular demographic group. Many schools Citywide serve high proportions of students in high need or underserved populations and produce positive academic outcomes, as described in more detail below.

The progress report uses a peer index to compare schools serving similar students in terms of demographics. Schools in the lowest peer index have the highest-need students in terms of demographics.

Schools earning Ds and Fs represent only about 19% of the grades earned by schools in the bottom third of the peer index, and about 17% of grades earned by schools in the middle third. On the other hand, 51% of schools in the bottom third earned As and Bs, and 60% of schools in the middle third earned As and Bs. There are many more schools with a very low peer index—as low as the schools proposed for phase out—that earned As and Bs than earned Ds and Fs.

The schools that earned Ds and Fs did not receive those grades because they have high-need students; they received those grades because they are not serving those students well, objectively and by comparison to other schools serving similar students. For example, of the graded schools with 10 lowest peer index (the highest-needs schools in New York City), three schools received As, one school received a B, and three schools received Cs.

Schools in the lowest third of the peer index that received As and Bs are very similar demographically to the schools in the lowest third that received Ds and Fs:

Population Breakdown of Schools in Lowest Third of Peer Index		
	D's & F's	A's & B's
Avg % IEP	18.8%	19.0%
Avg. % CTT/SC ¹	13.0%	14.0%
Avg. % overage	9.7%	11.3%
Avg. % Free/Reduced Lunch	79.8%	82.5%
Avg. % male	49.5%	50.7%

As described in Legacy’s 2010-2011 Progress Report, Legacy’s peer group is based on whether schools serve the same populations as Legacy.² As mentioned above, many schools serving similar proportions of high needs populations—in many cases higher proportions, are successfully serving their students. According to the progress report, Legacy serves a lower proportion of self-contained students than the average proportion at schools in its peer group.

The DOE has proposed the phase-out of Legacy for the reasons outlined in the EIS. The DOE does not believe the school can turn around quickly enough to support student needs and produce positive student outcomes. The DOE has made the decision to propose the phase-out of Legacy without consideration of any other factors not related the performance of Legacy and its ability

¹ CTT (collaborative team teaching) and SC (self-contained) are two models for serving special education students, as dictated by a student’s individualized education program (IEP).

² http://schools.nyc.gov/OA/SchoolReports/2010-11/Progress_Report_2011_HS_M429.pdf

to serve students. As explained above, many schools that serve high-needs populations are producing positive outcomes for their students.

Comment 4 questioned how many schools in Legacy's peer group are proposed for phase out. Of the 40 schools in Legacy's peer group, three are proposed for phase-out: Samuel Gompers Career and Technical Education High School, Grace Dodge Career and Technical Education High School, and Gateway School for Environmental Research and Technology.

Comments 5, 9, and 17 assert that Legacy should be given more time and more supports, including financial support, to improve its performance. Comments 16 and 39 state that Legacy has made recent improvements. Comments 17 and 27 relate to challenges Legacy has faced in the past that may have had a negative impact on performance.

Legacy has received individualized support plans as well as centralized services that the DOE provides to all schools. All schools receive support and assistance from their superintendent and Children First Network, a team that delivers operational and instructional support directly to schools. Struggling schools receive supports as part of system-wide efforts to strengthen all schools; and they also receive individualized supports to address their particular challenges. Despite this extensive assistance, the school has not produced adequate outcomes for its students.

Recent data shows some slight improvements at Legacy, but does not demonstrate that the school has the capacity to turnaround quickly. Credit accumulation in the first semester is relatively low, but appears to be higher for first year students than second or third year students. Further, results on the January Regents exams were mixed, with many students skipping exams they were scheduled to take, a solid pass rate for English, and very low pass rates for all other subjects.

Comment 21 relates to the DOE's strategy of replacing large schools with multiple small schools. Although Legacy is as small as many of the new small schools opened under this Administration, it has been struggling despite ongoing efforts to turn around the school. Due to the further decline of the school's performance during the 2010-2011 school year, and the DOE's assessment that the school lacks the capacity to turn around quickly to better support student needs, the DOE has determined that phase-out is required in order to best serve future high school students.

Comment 6 relates to the involvement of Legacy's school leadership team regarding the proposed phase out. Prior to issuing this proposal, the DOE sought and received feedback from the Legacy community about strategies to better support students and improve outcomes at the school. Additionally, on November 16, 2011, former Community School District 3 Superintendent Sara Carvajal held meetings with the teachers and the School Leadership Team, which includes students, to discuss what is and is not working at Legacy, and how we can work together to serve students better. Parents were also invited to a meeting with the superintendent held on November 16, 2011; however, only one attended—a representative of the Citywide Council on High Schools.

Comments 7 and 41 concern community engagement in the DOE's decision-making process.

Consistent with the DOE's approach last year and its desire to incorporate school and community input in its decision-making process, in October and November the DOE had conversations with 47 struggling schools (41 district schools and six public charter schools) that were eligible for an intensive support plan or intervention. In these conversations the DOE shared information about school performance, and talked with the community about their reflections of the school's strengths and weaknesses. This engagement is above and beyond what is mandated by State law.

The goal for these engagement meetings was to begin or renew conversations with schools and their communities about their performance and the resulting actions we may take to improve it. We gathered feedback – to understand what's working, what's not working, and what the community has to say about it – before making a decision about whether the school should be given intensive support or phased out and replaced with a new option that can support student success.

Superintendents met with the school leadership team, staff and parents to explain the Department of Education's thinking on why the school is considered struggling and what particular factors show this to be the case.

The DOE also distributed reports for each school that summarized school performance, school supports, and potential action steps. These are summaries that were handed out at feedback meetings and are posted on the DOE website.

Again, all of this happened prior to a decision about whether a school will be proposed for phase out or middle school truncation.

When the DOE announced its recommendation to propose the school for phase out, dedicated teams of educators and engagement specialists spent several days back in these schools meeting with teachers, parents, and students.

In January, Joint Public Hearings were held for all proposals and public feedback was collected at these meetings and through dedicated email and phone numbers. The Department's analysis of public comment will be available on-line prior to the vote.

With respect to community involvement in the proposed Legacy phase out, as stated above, prior to issuing this proposal, the DOE sought and received feedback from the Legacy community about strategies to better support students and improve outcomes at the school. Parents were invited to a meeting with the superintendent held on November 16, 2011; however, only one attended—a representative of the Citywide Council on High Schools.

The DOE also solicited community feedback via phone and email, including creation of a dedicated web page for this purpose at:

<http://schools.nyc.gov/community/planning/changes/manhattan/proposal?id=38>.

While some members of the Legacy community objected to the possibility of phasing the school out, the DOE believes that drastic action must be taken given the school's longstanding performance struggle and the lack of evidence that the school is poised to quickly turn around to better support students. We do plan to incorporate community feedback in other ways as we

continue to support current Legacy students working toward graduation and as we develop plans to replace Legacy with a new school that better meets student and community needs.

Comment 10 concerns the availability of progress report data for Legacy. The DOE began issuing Progress Reports in 2007. However, other data, including graduation rates and State report cards, are available for earlier years on the DOE Website at this link: <http://schools.nyc.gov/Accountability/data/default.htm>.

The DOE must focus on ensuring current and future students receive excellent educations. Recent academic performance at Legacy has been declining. Just last year, Legacy’s four-year graduation rate (including August graduates) was just 45%—well below the citywide average of 65% and in the bottom 4% of high schools Citywide. This proposal was made based on an evaluation of the current performance, enrollment, school environment, and assessment of the school’s ability to quickly improve.³

The graduation rates since 2001-2002 are below:

	Legacy School for Integrated Studies Four Year Graduation Rate									
	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011
Graduation Rate according to “NYC Calculation Method”	44%	23%	22%	32%	35%	49%	-	-	-	-
Graduation Rate according to “NYC Progress Report Method”	-	-	-	-	-	-	38%	52%	59%	45%

*Graduation rates are calculated using the NYC Calculation Method from 2001-2002 to 2006-2007 and using the Progress Report Method from 2007-2008 to 2010-2011.

Comments 11, 12, and 13 concern other new and phased out schools. The DOE is proposing to phase out seven schools and truncate three schools that were opened under the Bloomberg Administration (since 2002). These 10 schools represent less than 3% of the more than 500 new

³ The 2011 graduation rate cited for Legacy represents the City’s calculation of the four-year graduation rate on the 2010-2011 Progress Reports. Like the State rate, it includes August graduates, and typically there is only modest deviation between our calculation and the State calculated rate. State calculated graduation rates for the Legacy Class of 2011 are still being audited by the State and will not likely be available until Spring 2012, at which time the State calculated Citywide graduation rate for 2011 will also be released by the New York State Education Department. The most recent available State calculated Citywide four-year graduation rate (including August graduates) was 65% for the Class of 2011.

schools opened since 2002. We count on each of our schools to provide a high-quality education to its students—and we hold all schools of them all to the same high standard. If a school is not getting the job done for students – whether it was opened recently or not – we are compelled to take serious action to ensure its students don’t fall even further behind.

Comment 15 concerns teachers. All excessing of faculty from Legacy would be conducted in accordance with existing labor contracts.⁴ For example, the current United Federation of Teachers (UFT) contract would require excessing to take place in reverse seniority order within each given teaching license area.

Barring system-wide layoffs, excessed teachers would be eligible to apply for other City positions, and any teachers who did not find a permanent position would be placed in the ATR pool, meaning that they would continue to earn their salary while serving in the capacity of a substitute teacher in other City schools. Should there be a vacancy in the school in a teacher’s license area within one year of the teacher being excessed, the teacher would have a right of return to the school, consistent with applicable contractual provisions regarding teachers’ seniority.

It is also important to understand that the students who would otherwise have enrolled in Legacy will now be enrolled in the new school phasing in on the campus and other new schools opening borough-wide, and those schools might need to hire additional staff. New staff positions would also be created due to the phase-in of new or replacement schools Citywide. Consequently, this proposal would not necessarily result in an overall loss of teaching positions within the Citywide system.

New district schools follow the hiring process consistent with the procedures set forth in the collective bargaining agreement between the DOE and UFT. New district schools that have an impact on a school that is closing or phasing out shall be required to hire no less than 50% of their staff from the most senior qualified staff from the closing or phasing out school, if sufficient number of staff apply, until the impacted school is closed.

Comment 18 states that Legacy’s attendance rate does not take into account students who are homeless, without a primary caregiver, or have an incarcerated parent. In order to ensure consistency in data across schools, the DOE used the same methodology to calculate Legacy’s attendance as it did for all other schools in the city. In addition, as described in the EIS, attendance was only one of a number of performance issues that led the DOE to choose the school for phase-out.

Comments 14, 19, 26, 28, 29, 31, and 38 assert support for the programs, faculty, and/or administration of Legacy, and note Legacy’s positive environment. As noted in the EIS, the DOE is aware some members of the Legacy community support the school and believe that its current programs, faculty, and staff should continue. The DOE is also aware that some individual students, teachers, and programs at the school have met with success. However, as described at

⁴ Excessing of staff occurs when a school requires fewer positions than the number of staff currently in the license area or job title.

length in the EIS, the DOE believes that Legacy's poor overall academic performance can only be addressed by phasing out the school.

Comments 8 and 22 asked about the process of closing and improving schools. Comments 30, 32 and 40 make incorrect assertions about the phase-out process. In a concerted effort to ensure that all students have access to high-quality school programs, the Department of Education annually reviews the performance of all schools citywide. This process identifies schools that are having the most trouble serving their students.

First we compile a preliminary set of schools that meet one or more of the following criteria:

- Received a grade of D, F, or a third consecutive C or worse on the 2010-11 Progress Report; and/or
- Received a rating of Underdeveloped on the most recent Quality Review; and/or
- Was identified as Persistently Lowest Achieving (PLA) by the State Education Department; and/or
- For high schools: Received a recommendation on their 2010-11 JIT review for significant change in organizational structure or phase out/closure.⁵
- For elementary and middle schools: Received a C or D recommendation on the 2010-11 JIT review.

Next, we apply additional criteria to determine which schools are most in need of support or intervention. We remove from consideration schools that meet any of the following criteria:

- High Schools that have a higher graduation rate than the city average. The city average for 2010-11 is 65.1% and/or
- Elementary and middle schools that have a higher English Language Arts and Math average proficiency than their district average or the city average (whichever is lower). The city average for 2010-11 is 50.6% proficient; and/or
- Schools that received an A or B on the 2010-11 Progress Report; and/or
- Schools that earned a Well Developed or Outstanding score on the most recent Quality Review; and/or
- Schools receiving a Progress Report for the first time in 2010-11.

Schools that are removed from consideration for the most intensive support or intervention will receive differentiated support from their CFN team, but are not in consideration.

The most struggling schools are further investigated for more serious interventions that may include phase out/truncation and replacement. We considered a few key data points:

- Student performance trends over time;
- Demand/enrollment trends over time;

⁵ JIT is an intervention mandated by the New York State Education Department (SED) designed to assess the school's educational program, using multiple measures of quantitative and qualitative information and make recommendations to the Joint Intervention Team (JIT), comprised of a senior SED representative and a senior DOE representative.

- Interventions already underway (e.g. SIG model);
- Talent data;
- School culture / environment;
- District needs / priorities; and
- School safety data.

In addition to understanding the data, we also have conversations with school staff, parents, students, communities, and networks to get a holistic sense of what is happening at the school and what supports or interventions would most likely improve student outcomes. In our early engagement meetings at these schools, we had conversations with constituents about what is working and what isn't before making a decision about the supports or interventions that can best support student outcomes.

For the majority of schools we investigate, we see hope that the school can turnaround, and so we may replace the principal, change staff, invest in new programs or mentor teachers, and sometimes reconfigure grades to help the school change trajectory. But, in some cases, we are left with a set of schools that we know – based on quantitative and qualitative data – do not have the ability to improve quickly; and a decision is made to propose to gradually phase out the school and give future students a better opportunity.

At the end of this multi-step process, our analysis and engagement directed us to a set of schools that quantitative and qualitative indicators show do not have the capacity to significantly improve. Deciding what course of action can best support the students and community of a struggling school is not easy, but we are compelled to act based on our commitment to ensuring that every student has access to high-quality school.

No single factor determines whether a school will phase out or not. Deciding to phase out a school is the toughest decision we make. But it is the right thing to do for the students of New York City.

Comment 23 concerns how the proposed phase-out would affect current Legacy students. As described in the EIS, students currently enrolled at Legacy will be able to graduate from Legacy, assuming they continue to earn credits on schedule. As the school gets smaller, students will get more individualized support to stay on track to graduate, or to explore other options, such as transfer schools, if they are not on track. Current ninth-grade students also have the opportunity to apply to other high schools in Round two of the High School Admissions Process this spring.

If this proposal is approved, Legacy (as well as other schools being phased out) will receive support in the areas of budget, staffing, programming, community engagement, guidance and enrollment including, but not limited to:

- Helping the school provide students with options that support their advancement, and fully prepare students for their next transition point.
- Working with school staff to foster a positive culture.
- Supporting school leadership in efficiently and strategically allocating resources to ensure a consistent and coherent school environment focused on student outcomes.

Additionally, if this proposal is approved, it is likely Legacy will be supported in similar ways that phase-out schools have been supported in the past. For example, in September 2011, 26 schools began phasing out. These schools have received additional funding and specialized network support. Middle schools and high schools that began phasing out in September 2011 have been supported by the Phase Out Transition Support Network.

Comment 24 questions comparing Legacy's graduation rate with the city average. The DOE compares schools' graduation rates to those of their peer group in calculating Progress Report scores. Legacy's 45% graduation rate was 10 percentage points lower than Legacy's peer group average graduation rate of 55%, putting Legacy in the 12th percentile of its peer group. This is lower than the City average of 65%, but still 10 percentage points higher than Legacy's 45% graduation rate.

Comment 25 questions whether the most recent Regents scores were considered. The most recent Regents exam results, which were administered in January 2012, are not included in the data in the EIS, but will be factored into a final decision.

Comment 20 asserts that the DOE's data is inaccurate. The DOE makes every effort to ensure its data is vetted and true to its sources, especially with regard to the data used for Progress Reports. Though a commenter may disagree with which data is used or how it is used, this does not mean the data is incorrect.

Comments 42a-e concern the impact this proposal will have on class size. Class size is primarily determined by how principals choose to program students at their school within their budget. Thus, no particular proposal, in and of itself, necessarily impacts class size. The Citywide instructional footprint relies upon the current programming at a school (number of sections) to determine the baseline footprint allocation. Decisions to co-locate schools are not based solely on the utilization figures in the Blue Book. The DOE also considers the total number of classrooms in the building and the number of sections currently programmed at all schools in the building or projected to be programmed to determine the availability of excess space and the baseline footprint for each school.

The DOE acknowledges that there some members of the schools' communities that are opposed to the proposal, and/or prioritize smaller class sizes. However, given the schools' longstanding performance struggles, we believe that phasing out certain schools and/or creating new educational options by co-locating new schools will best serve the families in these communities.

With respect to CSM's comment regarding the particular types of students who attend phase-out schools, it should be noted that schools progress report grades are based in part on a comparison of the school with peer schools serving similar populations of students. Poor performance report grades thus indicate that a school is not serving its students well, both objectively and by comparison to other schools serving similar students. Moreover, the new schools proposed to open are anticipated to serve student populations similar to the phasing out school.

V. **Changes Made to the Proposal**

No changes have been made to the proposal in response to public feedback.