

Amended Public Comment Analysis

Date: June 9, 2015

Topic: The Proposed Expansion of Icahn Charter School 7 (84X362) in Buildings X093 and X893 with P.S. 93 Albert G. Oliver (08X093), Beginning in the 2016-2017 School Year

Date of Panel Vote: June 10, 2015

Summary of Proposal

The original Panel for Educational Policy (“PEP”) vote for this proposal was scheduled for the May 20, 2015 meeting of the PEP. The members of the PEP decided to move this proposal from the May 20th PEP meeting agenda to the June 10th PEP meeting. This Public Comment Analysis has been amended to include its new posting date and the PEP meeting at which the proposal to expand Icahn Charter School 7 in buildings X093 and X893 with P.S. 93 Albert G. Oliver beginning in the 2016-2017 school year will now be considered. The DOE extended the timeline to accept public comments for this proposal following the PEP members’ decision to move the proposal to the June 10th PEP agenda, so this Public Comment Analysis has been amended to also include comments submitted after the first Public Comment Analysis was posted on May 19, 2015. No changes have been made to the Educational Impact Statement (“EIS”) or Building Utilization Plan (“BUP”) posted by the DOE on April 1, 2015.

On April 1, 2015, the New York City Department of Education (“DOE”) issued an EIS and BUP describing a proposal to expand the grades served by Icahn Charter School 7 (84X362, “Icahn 7”) in buildings X093 (“X093”) and mini-school building X893 (“X893”) to include grades five and six beginning in the 2016-2017 school year. Icahn 7 is an existing charter school currently serving students in kindergarten through third grade in X093, located at 1535 Story Avenue, Bronx, NY 10473 in Community School District 8 (“District 8”). Icahn 7 is currently co-located in X093 with P.S. 93 Albert G. Oliver (08X093, “P.S. 93”), a district school serving students in kindergarten through fifth grade and offering a full-day pre-kindergarten program.

The expansion of Icahn 7 in X093 and X893 is intended to support the educational continuity of students currently enrolled in Icahn 7. If this proposal is approved, current and future Icahn 7 students who are eligible for promotion will have the opportunity to remain in Icahn 7 at X093 and X893 for fifth and sixth grade beginning in 2016-2017.

Pursuant to recent amendments to the Education Law, which provide certain new and expanding charter schools with access to facilities, Icahn 7 made a co-location request to the DOE for space in District 8 for its fifth through eighth grades. Although Icahn 7 requested space for its fifth through eighth grades, at this time the DOE is proposing to site only grades five and six of Icahn 7 at X093 and X893.

The Icahn Network currently operates seven public charter schools, including Icahn 7, across the Bronx, specifically in Districts 8, 9, and 11. Icahn 7 is a public charter school that opened in the 2013-2014 school year. The school’s charter was authorized in June 2011 by the State University of New York Trustees (“SUNY”). For the 2013-2014 school year, schools in the Icahn Network had an average ELA proficiency rate of 48% and Math proficiency rate of 65%. The Citywide average ELA and Math proficiency rates for the 2013-2014 school year were 28% and 34%, respectively.

In an EIS posted on May 10, 2012, the DOE proposed the siting and co-location of Icahn 7’s kindergarten through fourth grades at X093 and X893. The EIS also stated that the DOE would consider long-term options to accommodate the anticipated growth of Icahn 7. On June 26, 2012, the PEP approved the siting and co-location of Icahn 7’s kindergarten through fourth grades at X093 and X893.

According to the 2013-2014 Enrollment, Capacity, Utilization Report (“Blue Book”), X093 and X893 have a collective target capacity of 651 students (the concept of target capacity is explained in Section II of the EIS).

During the 2014-2015 school year, X093 and X893 are collectively serving approximately 545 students, yielding a combined utilization rate of approximately 84%. This means that X093 and X893 are currently “under-utilized” and have excess space to accommodate additional students. If this proposal is approved, when Icahn 7 expands to serve sixth-grade students at X093 and X893 in 2017-2018, approximately 612-707 students will be served in X093 and X893 by P.S. 93 and Icahn 7, yielding a projected utilization rate of approximately 94%-109%. As described in Section II.B of the EIS and in the BUP, while the building utilization rate is projected to exceed 100%, both schools will receive their baseline space allocations pursuant to the Citywide Instructional Footprint (“Footprint”) over the course of the proposal.

The details of this proposal have been released in an EIS and BUP, which can be accessed here:
<http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2014-2015/June2015SchoolProposals>.

Copies of the EIS and BUP are also available in the main offices of P.S. 93 and Icahn 7.

Summary of Comments Received at the Joint Public Hearing

The DOE held a joint public hearing regarding this proposal at the X093 building on May 6, 2015. At that hearing, interested parties had an opportunity to provide input on the proposal. Approximately 60 members of the public attended the hearing, and there were 22 speakers. Individuals present at the meeting included: Community Education Council (“CEC”) 8 members Chancy Marsh IV and Eduardo Hernandez; P.S. 93 Principal Jonathan Kaplan and P.S. 93 SLT member Roxanne Mathurin; Icahn 7 Principal Laura Sullivan, Icahn 7 SLT member Naudia Bethany, and Icahn Superintendent Jeffrey Litt; and Ashley Davies, Jonathan Geis, and Bridget Mercier from the DOE’s Office of District Planning.

The following questions, comments, and remarks were made at the Joint Public Hearing on May 6, 2015:

1. CEC 8 member Chancy Marsh IV expressed concerns about the proposal, stating:
 - a. Many people at the joint public hearing are from Icahn 7, not P.S. 43. He questioned how the community was noticed about the hearing, how long the notice and proposal have been available, and if people had enough time to review the proposal.
 - b. He grew up in this community, and the people making decisions about the school are not from the community.
 - c. This is a typical proposal in which Icahn 7 will expand and P.S. 93 will dwindle.
 - d. Charter schools are under a different jurisdiction than public schools.
 - e. Supporters of Icahn 7 should hold the Icahn Network accountable for services promised.
 - f. Decisions like this proposal are ultimately all about money.
 - g. Icahn 7 is not paying rent to be in the X093 building, while at the same time the Icahn Network is building multi-million dollar school buildings.
 - h. Icahn receives outside funding unlike district schools.
 - i. Icahn 7 does not have class sizes of 32 students like public schools, so this is not equal education.
2. CEC 8 member Eduardo Hernandez expressed concerns about the proposal, stating:
 - a. He has not seen the proposal but plans to email the PEP directly once he has done a full review.
 - b. He has issues with the scheduling of the joint public hearing since parent-teacher conferences are taking place the same evening.
 - c. He has concerns about the scheduling of the May PEP meeting since it is the same night as a CEC 8 meeting, which he brought to the Chancellor’s attention, and the DOE had the CEC’s meeting schedule.
 - d. The May PEP meeting is in Brooklyn, and people from the Bronx will not come to Brooklyn for the PEP because it takes a couple of hours to get to Brooklyn from the Bronx.
 - e. No other borough proposal is being considered at the May PEP meeting.
 - f. He will connect with the Chancellor directly about his concerns.

- g. There has been a Blue Book working group but the recommendations have not come out yet, and some things in the Blue Book are not legitimate.
 - h. He would like to know what percentage of Icahn 7 students are from District 8.
 - i. There is an overcrowding issue in the area.
3. P.S. 93 Principal Jonathan Kaplan made the following statements:
 - a. He has been at the school for a few years and has watched the school grow.
 - b. P.S. 93 and Icahn 7 get along well, including sharing spaces, but the expansion will cause problems with lunch time. Lunch could start as early as 9:30 a.m., which is not conducive to learning.
 - c. He is concerned because P.S. 93 is growing, and he is interested in expanding his pre-kindergarten program and opening more sections in some of his grades.
 - d. There would be no room for P.S. 93 to expand because of the Icahn 7 expansion, and he would have to turn away children who are zoned to the building.
 - e. The Building Utilization Plan looks at rooms, but the quality of life at a school should also be considered.
 - f. P.S. 93 is an “A” school and turns out excellent students.
4. P.S. 93 SLT member Roxanne Mathurin expressed concerns about the proposal, stating:
 - a. She is from the community, and parents are not at the hearing because the proposal is a “done deal.”
 - b. The proposal states there will be no impact on admissions, but she saw flyers go out in the community soliciting students to apply to Icahn 7.
 - c. She has concerns about equity between the two schools.
 - d. The Icahn 7 expansion will require P.S. 93 to move some of its rooms, and it is not fair if P.S. 93 has to cover the moving costs.
 - e. She is an advocate for good education, and she wants all students to learn, exceed, and excel regardless of the school they attend.
 - f. There were other Icahn schools in the building previously and they collaborated and worked well with P.S. 93. She would like to see more of this with Icahn 7 and more cohesiveness between Icahn 7 and P.S. 93.
5. Icahn 7 Principal Laura Sullivan expressed her support for the proposal, stating:
 - a. She welcomes and thanks the community for coming to the hearing.
 - b. She thanks the Icahn 7 families for their ongoing support of the Icahn mission.
 - c. She thanks P.S. 93; P.S. 93 was very welcoming when Icahn 7 came into the building.
 - d. P.S. 93 and Icahn 7 have established and maintained a wonderful relationship.
 - e. She wants to publicly recognize the fact that Mr. Kaplan welcomed Icahn 7 and the manner in which they serve together as school leaders.
 - f. She believes P.S. 93 and Icahn 7 are sharing space appropriately.
 - g. At the end of the day, everyone in the building is there because they want to educate children and share a vision for children.
 - h. Icahn 7 is looking forward to its continued co-location with P.S. 93 and its expansion to sixth grade in the X093 building.
6. Icahn Superintendent Jeffrey Litt made a statement in support of the proposal, saying that:
 - a. Icahn 7 is grateful to be in the X093 building.
 - b. Icahn is beginning its 15th year of service in the South Bronx this September; he was the founding principal of the first school, Icahn 1.
 - c. Someone previously stated that Icahn should keep its promises, but he has not heard anything negative about Icahn. Icahn has positive reviews online and in the media.
 - d. In regards to Icahn’s flyers, Icahn admits students through a lottery, and they have few seats available for the thousands of applications received.
 - e. To him, it does not sound like the school breaks its promises based on the demand for the available seats.

- f. He would like to know what promises have not been met. He will take personal responsibility if a promise was made and not met in any of Icahn's schools.
 - g. As a former DOE principal and Deputy Superintendent, he has managed a school that had an enrollment of 2,500 students. At no time will the X093 building be oversubscribed.
 - h. The DOE knows what it is doing and creates projections for proposals that take growth into account.
 - i. Icahn is not taking anything away from P.S. 93.
 - j. Icahn children have not and will never take anything away from the children they are co-located with.
 - k. P.S. 93's desire to expand is a separate issue from the proposed expansion of Icahn 7.
 - l. Mr. Kaplan is educating children; he is Icahn 7's host and has been very kind, which is appreciated by Icahn.
 - m. Children under his watch will never be discriminated against.
 - n. Icahn builds its own schools when it can, but it is out of space. It only has two schools in public space, and the other schools are located in facilities built by Icahn. This is unlike another large charter network that has all of its schools in DOE buildings.
 - o. Icahn purchases its buildings with private money, not tax money.
 - p. Icahn is a proven entity and is high achieving.
 - q. Icahn 7 gets along with P.S. 93, and P.S. 93 is welcomed to participate in any of Icahn 7's activities.
 - r. He would be happy to work with Mr. Kaplan and Ms. Sullivan on sharing spaces if an issue arises, including the sharing of space for lunch. He worked out lunch when he was the principal of a school with 2,500 students.
 - s. There has been no problem with the current co-location, and they look forward to their continued positive relationship.
7. One commenter stated that P.S. 93 is a community school, and she is sure that many Icahn 7 members are also community members.
 8. Multiple commenters stated they would like P.S. 93 to expand to eighth grade.
 - a. One commenter stated that the community needs good middle schools, and she would like there to be another community school that serves middle school students.
 9. One commenter stated that P.S. 93 classes are crowded.
 - a. One commenter stated that the community needs smaller class sizes.
 10. Many commenters expressed concerns about the availability of space in the X093 building for this proposal.
 11. One commenter stated that she would like to see P.S. 93 partner with a community-based organization, and it would need space to do so.
 - a. The commenter said schools need to do more than just educate students; schools should provide other supports and services as well.
 12. Many commenters stated that they have nothing against charter schools, but they still have concerns about the proposal.
 13. Multiple commenters expressed support for P.S. 93.
 - a. One commenter said she attended P.S. 93, and her children graduated from P.S. 93.
 14. One commenter expressed concerns about putting older grades and older children in the building with younger children.
 15. One commenter said that the proposal will cause P.S. 93 to decrease in size.
 16. Multiple commenters expressed concerns about the sufficiency of bathroom facilities in the building.
 - a. One commenter said not all floors have water fountains.
 17. One commenter stated that the proposal will make P.S. 93 eliminate art and science programs.
 18. One commenter questioned whether staff will have to leave if jobs are eliminated.
 19. One commenter said the proposal will take away the art, science, and technology rooms.
 20. One commenter said that the proposal will cause shared space challenges.
 21. One commenter stated that P.S. 93 was in the building first and it is not fair to expand Icahn 7.

22. One commenter said that Icahn has more access to funding, which should allow them to have their own location and to expand to whatever size they want to be.
23. One commenter questioned why Icahn 7 is expanding up to sixth grade when P.S. 93 only goes until fifth grade.
24. One commenter questioned why P.S. 93 has to give up space and not expand itself.
25. One commenter said that Icahn 7 is not the first charter school to be co-located in the building, and now Icahn 7 is asking for more space than when it was first sited in the building.
26. One commenter said the proposal will make Icahn 7 and P.S. 93 competitors instead of cohabiters.
27. Many commenters expressed support for the proposal.
 - a. Many commenters said they want Icahn 7 to expand.
 - b. One commenter said that he has a child in Icahn 7 and wants his other child to attend the school as well.
 - c. One commenter stated that people are seeking charter schools because students are not getting the education they need elsewhere.
 - d. One commenter stated that she wanted her son to attend Icahn 7 to be challenged.
 - e. One commenter said every child in the X093 building is important, regardless of what school they attend.
 - f. Multiple commenters expressed support for Icahn 7's staff and teachers.
 - g. One commenter stated she finds it a privilege for Icahn 7 to be in the X093 building.
 - h. One commenter said that she supports the proposal so Icahn 7 students can continue attending the school and not have any disruption in their education.
 - i. One commenter said that Icahn 7 has a high standard and pushes his son to do well.
 - j. One commenter stated that P.S. 93 and Icahn 7 are both public schools, and there is no difference between them.
 - k. Multiple commenters said Icahn is an alternative to private or parochial schools for those who cannot afford them.
 - i. One commenter said his child is doing as well as children he knows in a parochial school.
 - l. One commenter shared that Icahn prepares children for college, and her goal for her daughter is to go to college.
 - m. Multiple commenters said that they are tax payers in the community.
 - i. One commenter said that taxpayers pay taxes to have buildings like X093 available to them.
 - n. One commenter stated the Icahn 7 expansion will benefit children today as well as children in the future.
 - o. Multiple commenters stated that Icahn 7 and P.S. 93 work well together.
 - p. One commenter said the Icahn 7 expansion will not take away resources.
 - q. One commenter said Icahn 7 is not pushing P.S. 93 out.
 - r. One commenter said she is a teacher at Icahn 7, and the proposal will not take away electives like art, music, technology, and dance. She said she incorporates these in her own classroom without any additional space.
 - s. One commenter said her child is part of the community and has never once said Icahn 7 is better or worse than P.S. 93.
 - t. One commenter said that she wants all kids to have the same education her daughter has at Icahn 7 and for all students to have a safe and happy environment.
 - u. One commenter said she has seen the difference Icahn 7 and charter schools have made on students compared to other schools.
 - v. One commenter stated that the admissions of P.S. 93 will not be impacted by the proposal.
 - w. Many commenters said they are Bronx residents and residents of the community.

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

The DOE received three emails through the dedicated email address for this proposal and three comments through the dedicated phone line for this proposal. One of the three emails received was submitted to the DOE by Leonie Haimson, Executive Director of Class Size Matters, in response to all proposals being voted on at the June 10th PEP meeting. Her comments are described below.

The following comments were submitted through the dedicated email address and phone line:

28. The DOE received a written comment from a member of the public in support of the proposal, which stated:
 - a. She has a son at Icahn 7, and she feels privileged to belong to the Icahn 7 family.
 - b. Her son is excelling academically.
 - c. The intelligence gained by students like her son will make them great citizens and help them obtain jobs that will help the community.
 - d. She asked that Icahn 7 students be taken into consideration and to continue to support them in their education, since education is for the overall wellbeing and development of the country and since children are the future of this country.
29. The DOE received a written comment from a member of the public in favor of the proposed expansion, stating:
 - a. She attended the hearing and PEP Meeting when the proposal was supposed to be voted on, and she would like the PEP to vote in favor of the expansion.
 - b. P.S. 93's admissions will not be impacted.
 - c. Both schools are working together to make sure space is shared adequately.
 - d. The expansion will allow for Icahn 7 children to continue their education through sixth grade in the same environment.
 - e. The PEP members should think of their children when voting; the vote will allow the opportunity for all children to progress and become our educated leaders of tomorrow.
 - f. She would like her share of tax dollars to be used for the expansion.
30. The DOE received three oral comments from members of the public:
 - a. One commenter expressed concerns that the expansion may create further inequity within the P.S. 93 community, polarization, and increased pockets of privilege.
 - i. The commenter said the proposal would not be as bad if there was a way to create equity and expand privileges to all schools rather than increasing privileges of certain students.
 - b. One commenter expressed concerns about expanding Icahn 7 for the following reasons:
 - i. Icahn 7 will go to sixth grade while P.S. 93 only goes to fifth grade.
 - ii. She is not sure there is enough room for the expansion.
 - iii. She said other charters have come into the building and left, but Icahn 7 is not leaving.
 - iv. She hopes Icahn 7 is not granted the expansion.
 - c. One commenter expressed support for the proposal, stating she is a parent of an Icahn 7 student and she hopes the PEP votes to expand Icahn 7.
31. Leonie Haimson, Executive Director of Class Size Matters, submitted comments to the DOE in response to all proposals being voted upon at the June 10 PEP meeting. These proposals include: the proposed grade expansion of Success Academy Williamsburg (84K182) in District 14, the proposed grade expansion of Success Academy Cobble Hill (84K129) in District 15, the proposed expansion of Icahn 7 (84X362) in District 8, and the proposed new school co-location of a Success Academy (84KTBD) in District 22. The written comments raised the following points:
 - a. She expressed concern that New York City schools are already overcrowded, and that co-locations exacerbate the problem of overcrowding by requiring duplicate administrative offices and cluster/specialty spaces.
 - b. She expressed concern that any expansion restricts the ability of existing schools in the building to reduce class size below current levels, which she claims are already too high.

- c. She expressed concern with EIS's for proposals that project utilization rates of near or over 100 percent in future years, claiming that the current methodology for determining utilization rates is already flawed.
- d. She expressed concern that a Blue Book Working group appointed by the New York City Schools Chancellor made recommendations to improve utilization formulas, and that such recommendations have not yet been released.
- e. She expressed opinion that Success Academy can afford rent in its own space, since Success Academy has millions of dollars in reserves raised through fundraising efforts.
- f. She expressed belief that Success Academy enrolls fewer English Language Learners and special needs students than district schools.
- g. She expressed belief that Success Academy suspends students at greater rates than district schools.
- h. She included comparative enrollment and suspension rates for all existing district schools and charter schools impacted through these proposals, alleging that the charter law prohibits charter schools from expanding or replicating if it does not enroll or retain equal numbers of high needs students.
- i. She questioned why Success Academy schools have been able to add pre-kindergarten programs in 2015-2016 without having put those programs through the A-190 process.
- j. She also attached a letter sent to Mayor Bill DeBlasio and Chancellor Carmen Farina in Fall 2014 that requested a moratorium on all new co-locations and expansions until it is confirmed that the constitutional rights of the students in the existing schools have been remedied.

Analysis of Issues Raised, Significant Alternatives Proposed

Comments 1(a) and 2(a) pertain to engagement and notification about the proposal and joint public hearing, and how long the proposal and notice have been available.

As described in the EIS, extensive public and community engagement was conducted by the DOE in the course of creating this proposal, which included:

- Meeting with members of CEC 8 on October 15, 2014 to inform the CEC of the recent amendments to the Education Law and the potential for future engagement around assessing space for charter schools that request space.
- Convening a Community Needs Assessment Forum on November 17, 2014, which included representatives from the offices of elected officials, Bronx CECs, and District Presidents Councils, during which the amendments to the Education Law were discussed, along with other potential District Planning needs and priorities in the Bronx.
- Conducting a walkthrough of building X093 and X893 with a Deputy Chancellor on March 18, 2015. At the walkthrough, the Deputy Chancellor and other members of the DOE met with the principal and School Leadership Team members of P.S. 93 to further discuss the proposal, take questions and concerns from the school communities, and determine whether significant logistical or other concerns would prevent the implementation of this proposal if approved by the PEP. Also present was a member of the PEP. Members of the CEC were invited to attend this walkthrough as well.
- Meeting with the principal and leadership team members of Icahn 7 on March 25, 2015 to further discuss the proposal and take questions and concerns from Icahn 7.

The EIS, BUP, and Public Notice for this proposal were posted on the DOE's website on April 1, 2015. The DOE provided proposal documents and the joint public hearing notice to the P.S. 93 and Icahn 7 communities on April 1, 2015, which were distributed to families by April 2, 2015. The hearing for the proposal was scheduled for and held on May 6, 2015 based on the availability of the impacted principals, SLTs, CEC 8, and District 8 Superintendent.

In addition to the hearing, dedicated phone and email lines to accept public comment were available following the posting of this proposal until 6 p.m. on the day before the PEP meeting. Comments could be submitted in any

language by calling 212-374-5159 or emailing to D08Proposals@schools.nyc.gov. All comments received before 6 p.m. on the day before the PEP meeting, at the above-noted hearing or through phone or email lines, are addressed by the DOE in this analysis of public comment, which is made available to the public after 6 p.m. the day before the PEP meeting.

Comments 1(b, f, g), 21, 22, 23, 24, and 30(b.i) concern the decision to propose the expansion of Icahn 7 in the X093 building, with some commenters questioning the DOE's decision-making process and others suggesting that Icahn 7 secure its own building.

The proposed expansion of Icahn 7 is intended to provide educational continuity to Icahn 7 students.

In reference to comments that suggest Icahn 7 should not be located in a public building or that Icahn 7 should secure its own building, recent amendments to the New York State Education Law provide certain new and expanding charter schools with access to facilities or facilities assistance. Icahn 7 requested co-located space within a DOE facility. Pursuant to the Education Law, the DOE explored siting options in response to Icahn 7's request, which resulted in the proposal to expand Icahn 7 in X093 through sixth grade.

With specific reference to comments about the grade levels served by P.S. 93 and Icahn 7, as stated, this proposal is in response to Icahn 7's request for co-located space. The grade levels served by Icahn 7 are authorized by SUNY, not the DOE.

Comments 1(c), 4(b), 15, 17, and 26 express concerns about the impact of the proposal on P.S. 93's admissions, enrollment, and programming.

As stated on page 5 of the EIS, the DOE does not anticipate that Icahn 7's expansion to serve fifth and sixth grade at X093 and X893 will impact admissions, enrollment, or programming at P.S. 93.

In response to Comments 1(c) and 15 that P.S. 93's enrollment will decrease as a result of this proposal, as stated above, the DOE does not anticipate any impact on P.S. 93's enrollment due to the proposal. P.S. 93 has a current enrollment of approximately 403 students, and it is projected to have an enrollment of 367-427 students in 2017-2018 when the proposal is at full scale, if approved.

In reference to Comments 4(b) about P.S. 93's admissions, P.S. 93 is an existing zoned elementary school currently located in X093 and X893, serving kindergarten through fifth grade students and offering a full-day pre-kindergarten program. If this proposal is approved, P.S. 93 will continue to serve kindergarten through fifth grade students and will continue to serve pre-kindergarten subject to continued funding availability and demand. The DOE does not anticipate that the proposed expansion of Icahn 7 will impact admissions or instructional programming at P.S. 93.

P.S. 93 will continue to give priority to students who live in its zone, as it has in the past and in accordance with Chancellor's Regulation A-101. The full details of Chancellor's Regulation A-101 can be found at: <http://schools.nyc.gov/RulesPolicies/ChancellorsRegulations/default.htm>.

Zoned schools are obligated to serve all students residing in their zones, space permitting, regardless of when families show up to register. Applicants must be admitted to zoned schools in the following order of priority:

- a. Zoned students whose verified siblings are pre-registered or enrolled at the time of application submission and will be enrolled in grades K-5 in the school at the start of the following school year in September; and
- b. Zoned students other than those in (a) above applying to the zoned school.

If space allows, and if the Office of Student Enrollment deems appropriate based on district needs, offers may be authorized for the following priority groups in the below order. Only the Office of Student Enrollment may authorize the placement of non-zoned students out of this priority order; for example, for students who cannot be accommodated at their zoned school, or for special programs such as dual language or inclusion classes for students with Autism Spectrum Disorders.

- c. Students whose verified siblings are pre-registered or enrolled at the time of application submission and will be enrolled in grades K-5 in the school at the start of the following school year in September who are not zoned to the school, but are residents of that district;
- d. Students whose verified siblings are pre-registered or enrolled at the time of application submission and will be enrolled in grades K-5 at the start of the following school year in September who are residents of another district;
- e. Students currently attending the school's pre-kindergarten program who reside outside the school's zone but in the school's district, without a sibling who will be in grades K-5 at the school in the following school year;
- f. Students currently attending the school's pre-kindergarten program who reside outside the school's zone and district, without a sibling who will be in grades K-5 at the school in the following school year;
- g. Students other than those in (c) and (e) above who are residents of that district; and
- h. Students other than those in (d) and (f) who are residents of another district.

Elementary school students with IEPs, with the exception of those recommended for placement in a District 75 school, are admitted to schools in the same manner as general education students. Schools will ensure that students with disabilities continue to receive mandated services in accordance with their IEPs while also ensuring such students have opportunities to learn alongside their non-disabled peers to the greatest extent possible.

In accordance with DOE policy, English Language Learners ("ELL") students will also be admitted to elementary schools in the same manner as their peers who are not ELL students.

In regards to Icahn 7's admissions practices, Icahn 7 admits (and will continue to admit) students via a charter lottery every year for kindergarten and at any other grade where seats may be available. The lottery provides preference to siblings of students attending Icahn 7 and to students who reside in District 8. Applications are available on Icahn 7's website and are also available in hard copy at Icahn 7's main office.

Detailed information about charter schools and the charter lottery application process is published annually and can be found at: <http://schools.nyc.gov/community/planning/charters/Directory.htm>.

Comments 1(d, e) pertain to charter school accountability and contain an assertion that charter schools are under a different jurisdiction than public schools.

Icahn 7 is a public charter school. Charter schools became a component of New York State's public education offerings with the enactment of the New York State Charter Schools Act of 1998. Charter schools in New York City are authorized by three entities, the Chancellor of the NYC DOE, the New York State Department of Education, and the SUNY Board of Trustees. The New York Charter Schools Act guides the accountability for charter schools.

Charter schools are required to adhere to certain local, state, and federal regulations. Charter schools are held accountable for providing a significant educational benefit, pursuant to the New York Charter Schools Act, through the terms of special contracts called "charters" or "charter agreements."

Comment 1(h) relates to charter school funding.

The General Education Charter School per-pupil rate is determined by the State Education Department (“SED”) and is based on a formula used for all traditional public school districts. The formula divides the district’s Approved Operating Expenditures by Total Allowable Pupil Units. Special Education funding is an allocation that charter schools may qualify for and receive for serving students that receive special education services for more than 20% of the week as mandated by an IEP.

Charter management organizations, just like any other school Citywide, may choose to raise additional funds to support their schools.

Comments 1(i), 9, 9(a), and 31(b) express concerns about class size.

As described in more detail in the Blue Book, which is available at http://www.nycsca.org/Community/CapitalPlanManagementReportsData/Enrollment/2013-2014_Bookone_Target.pdf, a building’s target utilization rate is calculated by dividing the aggregated enrollment of all the school organizations in the building by the aggregated “target capacities” of those organizations. Each school organization’s “target capacity” is calculated based upon the scheduled use of individual rooms as reported by principals during an annual facilities survey, the DOE’s goals for maximum classroom capacities (which are lower than the United Federation of Teachers [“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). The target capacity assumes that the components underlying that target capacity (scheduled use of classrooms, goal maximum classroom capacity, etc.) remain constant.

Per the UFT contract, class size maximums for district schools are as follows:

- Pre-Kindergarten: 18 students
- Kindergarten: 25 students
- Grades 1-6 in elementary schools: 32 students
- JHS/MS (all grades 4 – 8 or 5 – 9, if are located in a middle school, then middle school class size applies): 33 students in non-Title I schools; 30 in Title I schools.

Based on current enrollment, both Icahn 7 and P.S. 93 operate with average class sizes below UFT maximums. As mentioned, the General Education Charter School per-pupil rate is determined by the SED and is based on a formula used for all traditional public school districts.

Comments 2(b-e) express concerns about the May PEP date, location, and agenda.

The PEP is scheduled to vote on this proposal, along with another proposal, at its May 20th meeting at the Prospect Heights Campus, located at 883 Classon Avenue, Brooklyn, NY 11225.

The PEP is mandated to meet at least once per month and to hold at least one meeting in each borough to accommodate families across the city. The PEP meeting dates and locations are set for the year in advance and are made available on the DOE’s website at: <http://schools.nyc.gov/AboutUs/leadership/PEP/schedule/2014-2015/20142015PanelforEducationalPolicyMeetingSchedule.htm>.

With specific regard to the May PEP only considering one proposal, this is untrue. In addition to the X093 proposal, the PEP is also considering the Proposed Opening and Co-location of Success Academy New York 10 (84KTBD) with Andries Hudde Middle School (22K240) in Building K240 Beginning in the 2016-2017 School Year.

Comments 2(f), 12, and 30(b.iv) express general opposition to the proposal.

There are times when the DOE and certain members of the community differ in their opinions about specific projects. This proposal is driven by the DOE's desire to use building capacity to serve students, to respond to Icahn 7's space request pursuant to recent amendments to the New York State Education Law, and to enable Icahn 7 students to continue their education through sixth grade in their current building.

Comment 2(g), 3(e), and 31(d) discuss the Blue Book and the Blue Book working group, with specific questions about the legitimacy of the Blue Book.

The Blue Book is an annual document that provides information on school organization and school building utilization. The utilization data is derived by using information from the Principal Annual Space Survey where principals report on how spaces are being used during a given school year. This Report is designed to provide a standardized assessment of capacity for each school and school building and assist decision-making relative to space utilization. The Blue Book is revisited and updated on a yearly basis; additionally, the School Construction Authority ("SCA") does random site visits each year to verify the information provided. In most instances, SCA finds the self-reported data on room usage to be accurate.

The current Blue Book has been simplified to adopt a new more user-friendly version under the advisement of the Blue Book Working Group. The Blue Book Working Group consists of representatives of parents, principals, Community Education Councils, the United Federation of Teachers, community groups, and elected officials. As the Blue Book Working Group continues to make progress, additional changes to any subsequent publications will likely be implemented. The purpose of the changes applied to the 2013-2014 Report is to make the document easier for the general public to navigate. The changes can be summarized into two types: 1. Organization of the Report and 2. Transportable Classroom Unit (TCU) capacity.

The Blue Book is available online at:

http://www.nycsca.org/Community/CapitalPlanManagementReportsData/Enrollment/2013-2014_Bookone_Target.pdf.

Comment 2(h) asks what percentage of Icahn 7 students are from District 8.

Approximately 99% of current Icahn 7 students reside in the Bronx, with 72% of current Icahn 7 students residing in District 8 specifically.

Comment 2(i) expresses concern about overcrowding in the area.

P.S. 93 is able to accommodate the students from its zone. Additionally, Icahn 7 admits students via a charter lottery every year for kindergarten and at any other grade where seats may be available. The lottery provides preference to siblings of students attending Icahn 7 and to students who reside in District 8. These lottery preferences enable students from the area to apply to and attend Icahn 7 if selected in the lottery.

Comments 3(a, f), 4(e), 7, 13, and 13(a) express support for district schools and P.S. 93 specifically.

The DOE recognizes the praise for P.S. 93. The DOE is committed to supporting all schools, including P.S. 93, and assisting with the expansion of Icahn 7, if this proposal is approved. Additionally, the decision to propose the expansion of Icahn 7 was not based on the performance of P.S. 93.

Comments 3(b, d), 4(f), 10, 11, 11(a), 19, 20, 30(b.ii), and 31(a) relate to concerns about space and the sharing of space.

There are currently hundreds of schools in buildings across the city that are co-located, which includes district schools with other district schools and district schools with charter schools. In all cases, the Footprint is applied to schools to ensure equitable allocation of classroom, resource, and administrative space. 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. A representative from the Office 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 representative.

The Footprint is available online at: http://schools.nyc.gov/NR/rdonlyres/961D691C-641D-4918-9798-8BA2C0A761FF/0/DOEFootprint_91114newlogo.pdf.

If approved, both P.S. 93 and Icahn 7 will receive their equitable allocation of space per the Footprint. The proposal currently under consideration provides both schools with their Footprint allocation based on each school's projected enrollment. Even after the schools receive their baseline or adjusted baseline allocation of space under the Footprint, there will still be excess rooms available in the building. The ultimate allocation of space and the location of classrooms for both schools will be determined by the Office of Space Planning in conjunction with the principals of P.S. 93 and Icahn 7.

In specific response to Comment 3(d), it is not expected that P.S. 93 will have to turn away zoned students as a result of this proposal, since, as mentioned, the proposal is not anticipated to have an impact on P.S. 93's admissions or enrollment. Furthermore, as described above, P.S. 93 will receive excess space beyond its allocation of space per the Footprint.

In regards to Comment 19 about the potential loss of rooms for art, science, technology, and other such rooms, and Comments 11 and 11(a) about the use of a room for a community-based organization, the ultimate usage of rooms within a school's Footprint allocation is at the discretion of the principal. Thus, it is up to the principal to determine the best use of space to meet the school's overall needs. As mentioned, P.S. 93 will receive its equitable allocation of space per the Footprint. Furthermore, the DOE does not expect this proposal to impact programming or educational options at P.S. 93.

In regards to comments about shared spaces, if the proposed co-location is approved by the PEP, the Building Council, consisting of principals from the 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 and that provides sufficient time for all students to be served (e.g., in the gymnasium and cafeteria). Specific decisions regarding the allocation of the shared spaces will continue to be made by the Building Council in conjunction with the 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.

If the principals are unable to agree upon a schedule for shared spaces, school leaders should utilize the dispute resolution process outlined in the Campus Policy Memo, which is available at <http://schools.nyc.gov/community/campusgov>.

In response to Comment 4(b) about collaboration between co-located schools, the principals of co-located schools are encouraged to collaborate and can use the Building Council as a forum for doing so.

As in other situations where schools are co-located, P.S. 93 and Icahn 7 will continue to share large common and specialty rooms in the building, which in this case includes an auditorium, a cafeteria, a gymnasium, a library, an outside recreation area, a space for the school-based support team, a space for the nurse's office, a space for the custodian's office, and a space for a parent room. Specific decisions regarding the allocation of the shared spaces are made by the Building Council.

In reference to Comment 3(b) about lunch time starting too early as a result of this proposal, the Building Council will work together to determine the shared space schedule to ensure all students have appropriate lunch times and an adequate amount of time lunch, and to coordinate the use of all other shared spaces.

The specific space allocations per the Footprint for P.S. 93 and Icahn 7 and an example of a shared space schedule can be found in the BUP for this proposal, which is available online at:

<http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2014-2015/May2015SchoolProposals>.

Comments 3(c) and 8 express interest in P.S. 93 expanding to serve more students.

Expanding the grade levels served at a school may be initiated for a variety of reasons. There is no current plan to expand the grade levels served by P.S. 93, and prior to the engagement for this proposal, no interest in expansion was raised to the DOE by P.S. 93's leadership or the school community.

In specific response to Comment 3(c) about P.S. 93 growing, over the past five years, total enrollment at P.S. 93 has actually decreased by approximately 1%.

Comment 4(a) pertains to an assertion that this proposal is a "done deal."

No decision has yet been made on this proposal. As mentioned, the PEP is scheduled to vote on this proposal, along with another proposal, at its May 20th meeting at the Prospect Heights Campus, located at 883 Classon Avenue, Brooklyn, NY 11225.

Comments 4(c) and 30(a, a.i) pertain to concerns about equity between charter schools and district schools.

As mentioned, the General Education Charter School per-pupil rate is determined by the SED and is based on a formula used for all traditional public school districts. In accordance with the New York State Charter Schools Act of 1998 (as amended), the Chancellor or his/her designee must first authorize in writing any proposed capital improvement or facility upgrade in excess of five thousand dollars, regardless of the source of funding, made to accommodate the co-location of a charter school within a public school building. For any such improvements or upgrades that have been approved by the Chancellor, capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter school within the public school building.

In terms of space, if this proposal is approved, both P.S. 93 and Icahn 7 will receive their equitable allocation of space per the Footprint.

Comment 4(d) asserts that, if approved, P.S. 93 may be required to incur expenses related to Icahn 7's expansion.

These assertions are untrue. As stated in the EIS, the proposal is not expected to impact costs or allocations at P.S. 93. P.S. 93 will not be required to cover costs associated with Icahn 7's expansion.

Comment 8(a) expresses interest in another middle school in the area.

If approved, this proposal will enable Icahn 7 to expand to serve a middle school grade in the X093 building. The DOE believes that Icahn 7 is a high-quality option for students in District 8 and the Bronx. As mentioned, 99% of Icahn 7 students reside in the Bronx, with 72% of its students residing in District 8 specifically. For the 2013-2014 school year, schools in the Icahn Network had an average ELA proficiency rate of 48% and Math proficiency rate of 65%. The Citywide average ELA and Math proficiency rates for the 2013-2014 school year were 28% and 34%, respectively.

Comment 14 expresses concerns 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. The DOE encourages all schools, including P.S. 93 and Icahn 7, 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.

In addition, the DOE makes available the following supports to schools relating to safety and security:

- Providing “Best Practices Standards for Creating and Sustaining a Safe and Supportive School,” as a resource guide;
- Reviewing and monitoring school occurrence data and crime data (in conjunction with the Criminal Justice Coordinator and the New York City Police Department);
- Providing technical assistance via the Borough Safety Directors when incidents occur;
- Providing professional development and kits for Building Response Teams; and
- Monitoring and certifying School Safety Plans annually.

Comments 16 and 16(a) express concerns about the sufficiency of bathroom facilities.

There are sufficient bathroom facilities at X093. There are boys, girls, and adult bathrooms, as well as working water fountains on every floor in X093. X893 also has sufficient bathroom facilities.

If the allocation of time in the bathrooms is not working or is inadequate, the Building Council may discuss alternative arrangements, such as the assignment of specific bathrooms. In many buildings where schools are co-located, each school is assigned bathrooms on the floors or hallways of their classrooms and specific stairways for students to use. These measures are taken to cultivate cohesive cultures within each school. Separation between schools is intended to limit any issues that might arise from groups of students who may not know each other well and to nurture school unity.

Comment 18 questions the proposal's impact on staff.

As stated in the EIS, the proposed expansion of Icahn 7 in X093 and X893 is not expected to change the number of personnel positions assigned to P.S. 93, nor is it expected to alter the duties of its current staff.

Comments 25 and 30(b.iii) state that Icahn 7 is not the first charter school to be located in X093, and now Icahn 7 is asking for more space than it was provided initially.

As described in the EIS for this proposal (posted on April 1, 2015), the PEP approved the siting and co-location of Icahn 7's kindergarten through fourth grades at X093 and X893 on June 26, 2012. The corresponding EIS stated that the DOE would consider long-term options to accommodate the anticipated growth of Icahn 7. The EIS also indicated that the Metropolitan Lighthouse Charter School (84X461) served kindergarten through fourth grades in building X093 and moved into a private facility prior to Icahn 7 phasing into X093. That EIS is available online at: http://schools.nyc.gov/NR/ronlyres/E0EFAEF0-C8E5-465C-B327-5E9476B48AEF/124874/EIS_84XTBDIcahn7_x093_vfinal.pdf.

The proposal under consideration by the PEP currently is an entirely new proposal for the siting of Icahn 7's grades five and six at X093.

Comment 31(c) expresses concern about building utilization rates exceeding 100%.

Despite the fact that the building utilization rate is projected to be over 100%, the DOE believes the building has sufficient space to accommodate P.S. 93 and grades kindergarten through six of Icahn 7. Although a utilization rate in excess of 100% may suggest that a building will be over-utilized or overcrowded in a given year, this rate does not account for the fact that rooms may be programmed for more efficient or different uses than the standard assumptions in the utilization calculation. The EIS and BUP provide that each school will receive space that meets all instructional needs; both schools will receive their baseline space allocations pursuant to the Footprint. Thus, the DOE believes that buildings X093 and X893 can serve all students that attend P.S. 93 and Icahn 7.

Comment 31(h) alleges that the charter law prohibits charter schools from expanding or replicating if they do not enroll or retain equal numbers of high-needs students in comparison to district schools.

Icahn Charter Schools serve predominately black and Hispanic students and students eligible for free or reduced price lunch, as well as ELL students and students with disabilities. Any child eligible for admission to a district school is eligible for admission to a public charter school. If the number of applicants exceeds the number of available seats at a charter school, a random selection process, such as a lottery, must be used. Lotteries select students randomly from among the applicant pool. Charter schools must admit all students according to their lottery preferences and may not turn away a student because of language ability or services required by an IEP. The New York State Charter Schools Act requires that charter schools demonstrate good faith efforts to attract and retain students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch at rates comparable to those of the Community School District in which the charter school is located, pursuant to enrollment and retention targets established by the Board of Regents or SUNY, as applicable.

Comments 31(e-g, i-j) are unrelated to the proposal and therefore do not require a response.

Comments 5(a-h), 6(a-s), 27(a-w), 28(a-d), 29(a-f), and 30(c) are in support of the proposal and therefore do not require a response.

Changes Made to the Proposal

No changes have been made to this proposal.