

Public Comment Analysis

Date: October 14, 2013

Topic: The Proposed Co-location of Grades Five through Eight of Success Academy Charter School – Harlem 4 (84M386) with Existing Schools P.S. 149 Sojourner Truth (03M149), P.S. M811 Mickey Mantle School (75M811), and Grades Kindergarten through Four of Success Academy Charter School – Harlem 1 (84M351) in Tandem Buildings M149 and M207 Beginning in the 2014-2015 School Year

Date of Panel Vote: October 15, 2013

Summary of Proposal

On August 30, 2013, the New York City Department of Education (“DOE”) issued a proposal to indefinitely co-locate grades five through eight of Success Academy Charter School – Harlem 4 (84M386, “SA – Harlem 4”) in tandem buildings M149 and M207 (“M149/M207”), located respectively at 34 West 118th Street, New York, NY 10026 and 41 West 117th Street, New York, NY 10026 in Community School District 3 (“District 3”), beginning in the 2014-2015 school year. If this proposal is approved, SA – Harlem 4 will be co-located with existing schools P.S. 149 Sojourner Truth (03M149, “P.S. 149”), a district school that serves students in grades kindergarten through eight and also offers a pre-kindergarten program; P.S. M811 Mickey Mantle School (75M811, “P811M@M149”), one site of a District 75 school (“District 75”) that serves students in grades kindergarten through eight and also offers a pre-kindergarten program. P811M@M149 serves students with autism or who are emotionally disturbed; and Success Academy Charter School – Harlem 1 (84M351, “SA – Harlem 1”), a public charter school serving students in grades kindergarten through four in M149/M207. “Tandem buildings” are two separate buildings with separate entrances which are joined by a central core containing large shared spaces, such as auditoriums, gymnasiums, and/or cafeterias. 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.

SA – Harlem 4 is an existing public charter school authorized by the State University of New York Trustees (“SUNY”) to serve students in grades kindergarten through eight. SA – Harlem 4 serves students in grades kindergarten through four in building M113 located at 240 West 113th Street, New York, NY 10026 in District 3, where it is co-located with P.S. 241 STEM Institute of Manhattan (03M241) and The Opportunity Charter School (84M279). For the 2013-2014 school year, SA – Harlem 4 serves students in grades five and six in tandem buildings M185 and M208 located respectively at 20 West 112th Street, New York, NY 10026 and 21 West 111th Street, New York, NY 10026, also in District 3, where it is co-located with P.S. 185 The Early Childhood Discovery and Design Magnet School (03M185), P.S. 208 Alain L. Locke Magnet School for Environmental Stewardship (03M208), Harlem Link Charter School (84M329), and P226M@P208M (75M226), one site of a District 75 school. If this proposal is approved, M149/M207 will be the long-term site for grades five through eight of SA – Harlem 4. SA – Harlem 4 previously served students in grade five in M149/M207.

If this proposal is approved, in 2014-2015, SA – Harlem 4 will serve 180-210 students in grades five through seven in M149/M207. In 2015-2016, SA – Harlem 4 will serve 215-245 students in grades five through seven in M149/M207. In 2016-2017, SA – Harlem 4 will reach its full grade span in M149/M207, serving 215-245 students in grades five through eight; however, SA – Harlem 4’s enrollment will continue to increase slightly each year until 2018-2019, when the school’s enrollment will stabilize at 335-375 students in grades five through eight.

P.S. 149 is an existing zoned district school that serves students in grades kindergarten through eight and offers a pre-kindergarten program. P.S. 149 admits students in grades kindergarten through five in accordance with Chancellor’s Regulation A-101 and students in grades six through eight through the District 3 Middle School Choice Process through a screened admissions method. P.S. 149 also offers two full-day pre-kindergarten classes and

admits students through the standard universal pre-kindergarten admissions process. Admissions policies for P.S. 149 are discussed in more details in Section III of the Educational Impact Statement.

P.S. M811 Mickey Mantle School is a District 75 school that operates five programs across five different locations, including M149/M207. P811M@M149 refers to the program in M149/M207. P811M@M149 serves students who are classified as autistic or emotionally disturbed on their Individualized Education Programs (“IEPs”). P811M@M149 currently serves students in self-contained and inclusion classes of six to twelve students and require a special education certified teacher. Students are placed in District 75 programs based on their individual needs and recommended special education services.

In conjunction with this proposal, future enrollment of P811M@M149 will be reduced by placing fewer new students in P811M@M149 each year. Demand for District 75 schools has remained constant in Manhattan for the last three years, and the DOE believes this trend will continue going forward. The consistent demand, combined with the overall increase in District 75 capacity in the borough through construction of new school buildings with dedicated capacity for District 75 students, leads the DOE to believe that the reduction of future enrollment of P811M@M149 will have a minimal impact on the future enrollment at other District 75 schools and that there will continue to be an excess of District 75 seats in Manhattan. This means that there will be sufficient District 75 capacity in Manhattan to meet the needs of future District 75 students. P.S. M811 Mickey Mantle School will continue to serve the same number of sections of students at its four other locations in Manhattan.

SA – Harlem 1 is a public charter school operated by Success Academy Charter Schools (“SACS”), the same charter management organization (“CMO”) as SA – Harlem 4, and is authorized by SUNY to serve students in grades kindergarten through nine, but only serves students in grades kindergarten through eight in the 2013-2014 school year. For the 2013-2014 school year and beyond, SA – Harlem 1’s students in grades kindergarten through four will continue to be served in M149/M207. SA – Harlem 1’s students in other grades will continue to be served in other DOE buildings.

SACS is a CMO that currently operates 18 public charter schools in New York City, including six new schools serving students for the first time in 2013-2014. The four SACS schools that received a Progress Report for the 2011-2012 school year all received an overall grade of A.

In addition, there is one Community Based Organization (“CBO”) occupying space in M149/M207: the Harlem Children’s Zone – Harlem Gems Program. The Harlem Gems Program is a universal pre-kindergarten program that prepares four-year-old children for entry into kindergarten. This proposal is not anticipated to impact the continued siting of this organization in M149/M207.

According to the 2011-2012 Enrollment, Capacity, Utilization Report (“Blue Book”), M149/M207 has a combined target capacity to serve 1,205 students. During the 2013-2014 school year, the buildings serve a total of approximately 1,104 students, yielding a building utilization rate of 92%. In 2018-2019, when SA – Harlem 4 has reached full scale in M149/M207 serving students in grades five through eight and the reduction of future enrollment at P811M@M149 has occurred, M149/M207 is projected to serve approximately 1,396-1,593 students, yielding a building utilization rate of 116%-132%.

Although a projected utilization rate in excess of 100% may suggest that a building will be over-utilized or over-crowded 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. In addition, charter school enrollment plans are frequently based on larger class sizes or different use of administrative space, contributing to building utilization rates above 100% while not impacting the utilization of the space allocated to the traditional public school(s) in the building.

The DOE supports the co-location of grades five through eight of SA – Harlem 4 in M149/M207 beginning in 2014-2015. This proposal is intended to create a long-term site for SA – Harlem 4’s students in grades five through eight and allow SACS to continue providing high-quality educational opportunities for students in Manhattan.

Summary of Comments Received at the Joint Public Hearing

A joint public hearing regarding this proposal was held at building M149/M207 on October 10, 2013. At that hearing, interested parties had an opportunity to provide input on the proposal. Approximately 114 members of the public attended the hearing and 23 people spoke. Present at the meeting were: Community School District 3 Superintendent Ilene Altschul; Senior Superintendent Elaine Gorman; P.S. 149 Principal Barbara Darrigo; P.S. 149 School Leadership Team (“SLT”) representatives Patrick Walsh, Parents’ Association President Sonya Hampton, Miriam Holmes, Karen McLean, and Rosa Brown; P.S. M811 Mickey Mantle School Principal Barry Daub; P.S. M811 Mickey Mantle School SLT representatives Paula Cunningham, Lynn Manuel, and Allister Johnson; Nina Saxon representing Manhattan Borough President Scott Stringer; New York State Senator Bill Perkins; Cordell Cleare representing New York State Senator Bill Perkins; Citywide Council on Special Education representative Noah Kaufman; Citywide Council on District 75 representatives Valerie Williams and Celia Green; Success Academy Charter School Representative Norah Cooney; Community Education Council (“CEC”) 3 President Joe Fiordaliso, Noah Gotbaum, Theresa Hammonds, Donna Gill, Barbara Denham, Olaiya Deen, J.C. Fagan, and Zoe Foundotos; and Meera Jain and Rebecca Rawlins from the DOE’s Division of Portfolio Planning.

The following comments and remarks were made at the joint public hearing on October 10, 2013:

1. New York State Senator Bill Perkins opposed the proposal and commented as follows:
 - a. The act of displacing severely disabled students is an act of segregation.
 - b. This smells like a done deal.
 - c. I don’t think the most vulnerable children should be treated like second class citizens.
 - d. This is a serious civil rights violation and I want to pursue legal action against this proposal.
2. Joe Fiordaliso, CEC 3 President, opposed the proposal and commented as follows:
 - a. I would like someone to answer when SACS’ equipment will be moved off the stage since it creates a safety hazard.
 - b. The CEC will continue to push for an open format for Question and Answer.
 - c. I’m opposed to co-locations, especially ones that are pushed through so late in Mayor Bloomberg’s term.
 - d. I want the new Mayor to put an immediate freeze on co-locations.
 - e. I want the New York State Legislature to give the CEC’s power to vote on co-locations.
 - f. The Chancellor withdrew the co-location proposal at 31R002 and should withdraw this proposal.
3. Olaiya Deen, CEC 3 member, opposed the proposal and commented as follows:
 - a. This proposal will impact fragile students at P811M@M149.
 - b. P.S. 149 has lost rooms that could have helped their students achieved higher proficiency rates.
 - c. These rooms were meant to be returned to P.S. 149, but never were.
 - d. The DOE is actively sabotaging the positive efforts of our district schools.
 - e. SACS is actively trying to dismantle public education and turn our schools into profitable businesses.
 - f. There should be lawsuit brought against the DOE and SACS because of this proposal.
4. Barbara Denham, CEC 3 member, opposed the proposal and commented as follows:
 - a. I find this co-location proposal and disruption to P811M@M149 wrong.
 - b. The DOE’s assertion that charter schools are better than district schools is flawed.
 - c. Overall, SACS proficiency levels dropped by 32%, which is more than the average charter proficiency levels which declined by 24% and average district proficiency levels which declined by 17%.
 - d. SACS were some of the worst performing charter schools based on their progress rates.
 - e. Based on their 2012-2013 test scores, SACS should receive a D on the 2012-2013 Progress Report; if they don’t, you know the Progress Report is fixed.
 - f. Why are we continuing to give space to SACS when they have not shown their worthiness?
 - g. Why are SACS called better when their overall proficiency rates are lower than district schools?
 - h. Charter schools receive private funds that enable them to have many support positions for their teachers.
 - i. Wouldn’t it be nice if district schools received private funds and could hire additional support staff?

- j. Why is SACS a model of school reform and replication when their test scores are low and teacher attrition rate is high at 30-40%?
5. Noah Gotbaum, CEC 3 member, opposed the proposal and commented as follows:
 - a. This co-location is like a war on the most vulnerable students.
 - b. The DOE is telling us that P811M@M149 students are not important and that it's okay to move them out.
 - c. As a CEC, we have to go to Bill de Blasio and have this co-location rescinded.
 - d. Did SUNY assess whether this co-location would be sustainable for all schools that will be in the building?
 - e. Has SUNY ever rejected a co-location that has been put forth by the DOE?
 - f. SUNY is even more of a rubber stamp than the PEP.
 - g. What is the DOE's rationale for moving SA – Harlem to this building?
 - h. Why is the DOE moving out students with special needs?
 - i. Why is the building utilization rate increasing to 130%?
 - j. There are buildings in District 4 and District 5 that can accommodate more students and why weren't they looked at for co-location?
 - k. What percentage of students at SA-Harlem 1 and SA- Harlem 4 are District 3 residents?
 - l. Has the DOE conducted an analysis on the impact of moving students to another District 75 school?
 - m. What is the impact of adding 300-500 more students and a building utilization rate of 130% on students with special needs?
 - n. Why are rooms for occupational and physical therapy and speech and counseling services not part of the Footprint for each school?
 - o. The DOE's Footprint does not allocate additional rooms for occupational and physical therapy and speech and counseling services and that incentivizes SACS to put out the neediest students.
 - p. Are you doing your job if you rubber stamp this proposal just because it is SACS?
 - q. Why aren't questions answered at a joint public hearing?
 - r. What is the purpose of a joint public hearing?
6. Sonya Hampton, P.S. 149 Parents' Association President and SLT representative, opposed the proposal and commented as follows:
 - a. My children's education has been harmed by SACS.
 - b. I love P811M@M149 and the DOE cannot divide and conquer P811M@M149.
 - c. SACS uses the stage to store their equipment and is a fire hazard for all the schools in the building.
 - d. SACS does not actively participate in the Building Response Team meetings.
 - e. During fire drills, SACS evacuates how they want to and puts our students in jeopardy.
 - f. SACS teachers and students do not get along with our students and teachers.
 - g. SACS does not accept students with special needs, such as autistic children.
 - h. I'm concerned about the safety of our children in the building.
 - i. Once SACS is charged rent, they will have to vacate because they cannot afford this building.
7. Lynn Manuel, P811M@M149 SLT representative, opposed the proposal and commented as follows:
 - a. This proposal will shrink our school every year for the next five years.
 - b. We've already lost the art, music and computer rooms.
 - c. The new buildings with District 75 capacity are in Soho and Greenwich Village, not in our community.
 - d. This is a vibrant school community that has strong associations with museums, recycling organizations, swimming programs, and New Victory Theater.
 - e. We have not received a \$5 million grant like SACS, but we receive donations from Donor's Choose and New York Cares.
 - f. SACS is trying to get rid of a functional school that is for the neediest children.
 - g. I don't want our teachers to feel their positions are at stake because these teachers care about our students.
 - h. I teach theater arts and will most likely lose my classroom.
 - i. SACS has a right to exist and grow to 100 schools, but at the expense of children with special needs.
 - j. P811M@M149 will lose the theater, arts, and gym programs.
 - k. P811M@M149 will no longer have rooms for occupational and physical therapy services.

- l. P811M@M149 students cannot handle the amount of traffic that currently exists in the hallways, how will they handle even more traffic caused by adding more students?
 - m. We are trying to do the best for our children.
 - n. I am appealing to the DOE to reconsider this proposal because it is not fair.
 - o. How will the DOE ensure that students that are currently here will not lose more space over time?
8. Allister Johnson, P811M@M149 SLT representative, opposed the proposal and commented as follows:
- a. Losing three classrooms does not sound like a lot, but it will result in an enrollment reduction of 30%.
 - b. Students with special needs require more space than the Footprint.
 - c. Having more students in the building will disrupt the services provided to our students.
 - d. The rooms for occupational and physical therapy will be taken away and we will have to serve students in the hallways.
 - e. We have to compete with SACS for space and it is not easy on our children.
 - f. A lot of our students come from this community and will now have to bused downtown to the new District 75 schools.
 - g. How much more time will students be spending on the bus?
 - h. How is the DOE going to justify that we lose space for occupational and physical therapy and SAVE?
9. Paula Cunningham, P811M@M149 SLT representative, opposed the proposal and commented as follows:
- a. We love and care about our students at P811M@M149.
 - b. P811M@M149 is a community with a heart, soul and spirit and cannot be disregarded.
 - c. Our students have a unique set of needs and we are dedicated to ensuring that their needs are met.
 - d. Please don't eliminate our program.
 - e. Our students cannot be re-sited to other locations.
 - f. I'm not saying that SACS should not be co-located, but please don't do it at our expense.
10. Patrick Walsh, P.S. 149 SLT representative, opposed the proposal and commented as follows:
- a. P.S. 149 has lost the music and computer rooms in order to provide SACS with karate and locker rooms.
 - b. P.S. 149 has been treated as trespassers by SACS and they do not exhibit common decency.
 - c. SACS wants our entire building.
 - d. The continuity and community in this building have been undermined because SACS keep coming back for more space.
 - e. It was a temporary arrangement to have SA – Harlem 4 in the building, how did it become permanent?
11. Kara McLean, P.S. 149 SLT representative, opposed the proposal and commented as follows:
- a. I don't feel like my children are safe in this building.
 - b. SACS are not welcoming and their students are not friendly to my children.
 - c. My children have special needs and they are receiving services in inadequate spaces.
12. Miriam Holmes, P.S. 149 SLT representative, opposed the proposal and commented as follows:
- a. It is not safe for our children to wait outside of the building until 8:00 am because SA – Harlem 1 is having breakfast until 8:00 am.
 - b. SA – Harlem 1 has lunch at noon and P.S. 149 has lunch at 10:40 am
 - c. Our programs are being squeezed out because we are losing space.
 - d. This joint public hearing is a formality; we knew SA – Harlem 4 was going to move in last summer.
 - e. We need our own space back from SACS.
 - f. SACS should rent their own buildings.
13. Noah Kaufman, Citywide Council on Special Education representative, opposed the proposal and commented as follows:
- a. Charter management organizations are private organizations that exist for profitable reasons.
 - b. Citywide Council on Special Education has been fighting for many years to protect the rights of students with special needs.
 - c. I'm personally opposed to this proposal.
 - d. The BUP is not worth anything because it is not signed by anyone.
 - e. I encourage the DOE to withdraw this proposal.
14. Celia Green and Valerie Williams, Citywide Council on District 75 representatives, opposed the proposal and commented as follows:

- a. We are disgusted and discouraged by this co-location proposal as it will destroy this school community.
 - b. SACS is not a nonprofit organization because Eva Moskowitz had a \$23 million surplus last year.
 - c. SACS has enough money to rent their own building, like they do in other states.
 - d. Why does SACS' think they can take space from P811M@M149?
 - e. We are not against co-location, but not on the backs of our students.
 - f. Charter schools turn students with special needs away after they've collected their per-pupil funds.
 - g. Charter schools send students back to their zoned schools.
 - h. Why does the DOE fund charter schools?
 - i. P811M@M149 needs additional space for occupational, physical and sensory therapy, a nurse and psychologist.
 - j. This proposal is a violation of our rights.
 - k. We had the same fight with Community Roots Charter School taking space from P369 in District 13.
 - l. It is not acceptable that students are receiving services in closets, hallways, and bathroom stalls.
 - m. Charter schools are not graded on the same scale as district schools.
 - n. Where are children with autism going to go and how will their services be met?
 - o. The DOE phases-out schools and then lets SACS take that space.
 - p. This proposal is not equitable or fair and will impact our neediest children.
15. Cordell Cleare, Senator Perkins' Chief of Staff, opposed the proposal and commented as follows:
- a. It is heartbreaking and unforgivable what the DOE is doing to students with special needs.
 - b. It hurts to learn that there is no longer a music program at this school.
 - c. This proposal will have a real impact and effect on P811M@M149 students.
 - d. My child had special needs and taking away special programming like music will impact his future.
 - e. SUNY needs to know that this is just about real estate and should not approve the co-location.
 - f. How many of SACS' students are ELL students and how many have special needs?
 - g. It is insensitive for SACS to tape this joint public hearing when they have not asked permission.
16. One commenter stated that children should receive occupational and physical therapy in private rooms, not in the hallways.
17. Multiple commenters stated that it is a disgrace that SACS stores their equipment on the stage when it should be used for students to perform on.
18. Multiple commenters expressed their disgust that the DOE and SACS are disrupting the education of the most vulnerable students.
19. Multiple commenters stated that the Individual Disabilities Education Act ("IDEA") mandates that every child with a documented disability between the ages of three and 21 are entitled to a fair and public education in the least restrictive environment.
20. Multiple commenters expressed that P811M@M149 cannot provide a fair education because they are too crowded in the building.
21. One commenter expressed difficulty in transitioning her autistic students in the hallway because of space constraints.
22. One commenter asserted that SUNY would be doing a disservice if they approved this co-location because it is inequitable.
23. One commenter asserted that SUNY should find another building for SA – Harlem 4.
24. One commenter stated that the PEP can approve this unconstitutional proposal, but the new Mayor and PEP can repeal this.
25. One commenter asserted that the DOE cannot disrupt students from attending their zoned school and sending them far from home.
26. One commenter asserted that the DOE cannot overcrowd classes at some schools and reduce class sizes at other schools.
27. One commenter asserted that district school students cannot eat lunch at an unreasonable time to allow for the charter school students to eat lunch at an optimal time.
28. Multiple commenters expressed that space arrangements in this proposal are not equitable.
29. Multiple commenters asserted that they will pursue legal action against the DOE and SACS because this proposal is in violation of students' rights.

30. One commenter expressed that P811M@M149 is no longer co-existing because SACS wants to keep taking their space.
31. One commenter stated that P811M@M149 offers a smooth transition to general education.
32. Multiple commenters stated that P.S. 149 and P811M@M149 have a shortage of space and are pushed into doing things that compromise their professionalism.
33. Multiple commenters expressed their gratitude for the teachers and community at P811M@M149.
34. Multiple commenters expressed how happy their children were at P811M@M149.
35. Multiple commenters asserted that they were concerned about their children being re-sited to another District 75 school and the burden of traveling to a new school.
36. One commenter stated that they relied on the DOE to help find the best District 75 school for their children.
37. One commenter asserted that the rooms P811M@M149 will be given to SA – Harlem 4 are rooms that are used for inclusion classes.
38. One commenter asserted that that the loss of rooms that are used for inclusion classes will cause P811M@M149 to lose its proximity to P.S. 149.
39. Multiple commenters stated that the loss of three classrooms for P811M@M149 will cause enormous disruption to District 75 students.
40. One commenter stated that Community Roots Charter School in District 13 was proposed to take space from P369, a District 75 program, even though it received an F on its Progress Report.
41. One commenter stated that charter schools look at all buildings and then decide which one they want.
42. One commenter asserted that SACS chooses buildings for their location and proximity for their employees.
43. One commenter asserted that SACS has a larger budget because they do not have to pay rent.
44. One commenter stated that the DOE will not close P.S. 149 because they need them to pay rent.
45. Multiple commenters stated that in other states charter schools find their own private space, but in New York City, we give them space for free.

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

46. New York City Council Member Gale Brewer submitted a letter in opposition via email and commented as follows:
 - a. P811M@M149 requires additional floor space to accommodate students with disabilities.
 - b. It is a grave miscalculation to assume that P811M@M149 can do without three classrooms.
 - c. It is concerning that the DOE and SACS are deciding among themselves to cut P811M@M149's space.
 - d. The lack of public disclosure and absence of the opportunity for families, staff, and advocates to participate in the discussions is contrary to New York State Law 2590 and Chancellor's Regulation A-190.
 - e. These backroom decisions have lasting impact on the lives of children that must overcome serious challenges to achieve their academic potential.
 - f. P811M@M149 is already at capacity and the proposed reduction in classrooms inflicts unacceptable hardship on its students.
 - g. The DOE should make the process more transparent and participatory for the families affected by this decision.
47. New York State Assemblyman Daniel O'Donnell submitted a letter in opposition via email and commented as follows:
 - a. District 3 has six buildings that are co-located with SACS.
 - b. Co-locations are destructive to all parties and especially students exposed to what are most often great inconsistencies in how the two schools are equipped.
 - c. Although the DOE's Blue Book claims that buildings are under-utilized, the analysis does not take into account the full complement of students' space needs, especially at M149 and M207.
 - d. All co-locations should be put on hold pending the inauguration of a new Mayor.
 - e. District 3 is overcrowded and must not be further strained in the next few months.
48. One comment was received via email in opposition to the proposal and commented as follows:
 - a. There are too many Success Academy Charter Schools in District 3.

- b. There are too many students applying for District 3 high schools.
- 49. Two comments were received via email in opposition to the proposal and commented as follows:
 - a. P811M@M149 has already lost a library, tech, art, and music room.
 - b. This proposal will cause P811M@M149 to lose even more rooms that are used for theater, arts, and occupational and physical therapy.
- 50. A resolution from CEC 30 was received via email calling for co-located charter schools to pay for space and services in public school buildings.
- 51. A resolution from CEC 30 was received via email calling for a moratorium on all school closures, phase-outs and charter school co-locations.
- 52. Two comments were received via voicemail in general opposition to the proposal.
- 53. One comment was received via voicemail in opposition the proposal and commented as follows:
 - a. P811M@M149 needs additional space for occupational and physical therapy.
 - b. If P811M@M149 loses three rooms, they will not be able to provide therapy services to their students.
- 54. A flier was distributed at the joint public hearing in opposition to this proposal and is summarized as follows:
 - a. SACS continues to take space away from P.S. 149 and now P811M@M149.
 - b. This move will displace students with autism and behavioral impairments in P811M@M149.
 - c. The proposed co-location will increase the building capacity to 130% causing overcrowding and the loss of educational and therapeutic space for students who remain at P811M@M149.
- 55. A flier was distributed at the joint public hearing in opposition to this proposal and is summarized as follows:
 - a. The DOE pits the schools in M149 against each other by moving SACS into the building.
 - b. P.S. 149 has a thriving arts program but is compromised because SACS uses the stage to store their equipment not related to student productions.
 - c. 20% of students at P.S. 149 have special needs and their services will be impacted as a result of this proposal.
 - d. P.S. 149 has lost a music room, SAVE room, computer lab, occupational and physical therapy rooms, and ELL classrooms as a result of SACS' expansion in M149 and M207.
 - e. Hallways are crowded causing safety hazards.
 - f. P811M@M149 students are not permitted to use a certain entrance because it used for SACS.
 - g. A soccer field was installed in the field without consultation of P.S. 149's school leadership team.
- 56. One comment was received via email that addressed another co-location in District 3 and was unrelated to this proposal.
- 57. A resolution from CEC 3 was received via email calling for co-located charter schools to pay for space and services in public school buildings.
- 58. A resolution from CEC 3 was received via email calling for a moratorium on charter school co-locations in District 3.

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

Comments 2(a), 2(b), 2(e), 13(b), 14(k), 17, 40, 48(b), and 56 are unrelated to the proposal and thus do not require a response.

Comments 2(c), 2(d), 3(a), 4(a), 5(a), 5(c), 6(a), 7(n), 13(c), 13(e), 14(a), 14 (e), 14(p), 15(a), 15(c), 18, 47(b), 47(d), 48(a), 51, 52, 58 are in general opposition to the co-location proposal and SACS.

Given that building space is scarce in New York City neighborhoods, and the growing enrollment needs of our 1.1 million students, the DOE must use its existing public buildings in the most efficient manner possible. Sharing space is central to New York City's strategy for school improvement. DOE has over 900 schools and programs co-located with at least one other district or charter school in multi-school campus buildings. Co-locating charter schools with district schools is necessary to ensure that students and families in every community have increased access to and range of high-performing educational options. There are several structures to facilitate a smooth co-location between the two schools. Co-located schools on campuses must actively participate in a Building Council, which is a campus structure for administrative decision-making for issues impacting all schools in the building. Additionally, a Shared Space Committee will review the implementation of the BUP once it has been approved by the PEP. To the extent

that principals and charter leaders are unable to reach agreement upon the use of shared spaces, they may avail themselves of a mediation process outlined in the Campus Policy Memo, which is available at <http://schools.nyc.gov/community/campusgov>.

Comments 3(d), 6(b), 7(d), 7(e), 9(a), 9(b), 9(c), 31, 33, and 34 discuss the positive aspects of P811M@M149 and P.S. 149; their school leadership teams, community partnerships, and standing in the community. The DOE acknowledges these comments and recognizes the collaborative role that parents and principals partake in developing these schools. In addition, schools throughout the city are not just educational institutions, but rich and tight-knit communities. The DOE expects that all schools will be fully engaged with the community and will continue to play a vital role as an anchor for the community. Students with disabilities receive services in accordance with their IEP developed for each student. The schools in M149/M207 will ensure that students with disabilities continue to receive mandated services in accordance with the IEPs while also ensuring such students have opportunities to learn alongside their non-disabled peers to the greatest extent possible. Any students requiring ELL services will continue to receive appropriate services at the schools in M149/M207.

In regard to comment 5(k) 41% of students from SA – Harlem 1 are District 3 residents and 40% of students from SA – Harlem 4 are District 3 residents.

School DBN	TOTAL		
	# D3 Residents	% D3 Residents	Total Enrollment
84M351	376	41%	915
84M386	229	40%	575
Total	605	41%	1,490

Comments 1(b), 5(p), 12(d), 24, and 46(e) suggest a decision has already been made regarding this proposal. While the DOE supports the proposed co-location of SA – Harlem 4 in M149/M207, the DOE notes that no final decision has been made on this proposal. Any proposed change to school utilization must go through the process outlined by Chancellor’s Regulation A-190 and be approved by the PEP before it can take effect.

Comments 9(f), 10(c), 13(d), 47(a), and 55(a) state general opposition to co-locations.

A co-location means that two or more school organizations are located in the same building. While they share common spaces like auditoriums, gymnasiums, and cafeterias, each school is allocated particular classrooms and spaces for its own students’ use. Co-location is the everyday experience of more than half the schools in New York City. Of all district schools, approximately two-thirds are co-located with another school, most with another district school. Less than one quarter of our buildings have a charter school in them. Co-locations allow us to use our limited facilities efficiently while simultaneously creating additional educational options for New York City families. This is necessary because we have scarce resources and a demand for more options. The DOE is confident that the principals in M149/M207 will be able to create a collaborative and mutually respectful environment for all students, staff, and faculty members in the building.

Comments 5(n), 5(o), 8(b), 8(e), 8(h), 14(d), 16, 28, 46(c), and 53(a) question the Instructional Footprint and the process by which space is allocated.

In all cases, allocation of classroom, resource, and administrative space is guided by the Citywide Instructional Footprint (the “Footprint”) which is applied to all schools in the building. The DOE seeks to fully utilize all its building capacity to serve students. The DOE does not distinguish between students attending public charter schools

and students attending district schools. In all cases, the DOE seeks to provide high quality education and allow parents/students to choose where to attend school. The full text of the Instructional Footprint is available at http://schools.nyc.gov/NR/ronlyres/78D715EA-EC50-4AD1-82D1-1CAC544F5D30/0/DOEFOOTPRINTSConsolidatedVersion2011_FINAL.pdf

The Footprint is the guide used to allocate space to all schools based on the number of class sections the school programs and the grade levels of the school. The number of class sections at each school is determined by the Principal based on enrollment, budget, and student needs; there is a standard guideline of target class size (i.e., number of students in a class section) for each grade level.

For elementary schools serving grades kindergarten through five (and for all pre-kindergarten programs), the Footprint assumes that classes are self-contained. Therefore, the Footprint allocates one full-size room for each general education or ICT section and a full-size or half-size room to accommodate each SC special education section served by the school. In addition to these rooms, schools serving grades kindergarten through five receive an allocation of cluster or specialty rooms proportionate to the number of students enrolled. These spaces can be used at the principal's discretion for purposes such as art and/or music instruction, among other things.

For grades six through twelve, the Footprint assumes that students move from class to class and that classrooms should be programmed at maximum efficiency. The Footprint does not require that every teacher have his or her own designated classroom. Principals are asked to program their schools efficiently so that classrooms can be used for multiple purposes throughout the course of the school day.

Space is allocated to District 75 programs according to the DOE's District 75 Instructional Footprint. District 75 programs are also provided access to shared spaces such as the gymnasium, the library, the auditorium, and the cafeteria, and spaces such as occupational/physical therapy rooms, the nurse's office, etc. or provided with space for comparable purposes. Excess space allocation in buildings with co-located schools is traditionally based upon the physical location of the available space in relation to the location of each school within the building and relative enrollment of the schools. In buildings where District 75 programs are co-located with other organizations, excess space will be equitably distributed to all organizations based on a percentage of the student enrollment, except that the excess allocations to District 75 programs are based on the number of sections of students, rather than the number of students. In regard to P811M@M149, they are allocated two half-size rooms that can be used for occupational, physical therapy, guidance/social work, speech therapy, psychiatrist, or crisis counseling; P811M@M149 can decide how to program these rooms.

Comments 3(b), 3(c), 7(a), 7(b), 14(l), 32, 49(a), and 55(d) express concern over the current space allocation in M149/M207.

The DOE has applied the Footprint to all schools and/or programs outlined in the BUP attached to this proposal in an unbiased manner. Based on 2013-2014 enrollment and sections, each school in M149/M207 is currently using excess space above its baseline footprint allocation. P.S. 149 is currently using 3 full-size rooms in excess; P811M@M149 is currently using 1 quarter-size room in excess; and SA – Harlem 1 is currently using 9 full-size rooms in excess. The proposed allocation in the BUP attached to this proposal mirrors the allocation set forth in the current revised BUP for M149/M207.

Comments 7(h), 7(j), 7(k), 7(o), 8(a), 8(d), 8(h), 11(c), 15(d), 37, 46(b), and 49(b) express concern over future space allocations in M149/M207.

The BUP details the number of class sections each school is expected to program each year through 2018-2019 and allocates the number of classrooms accordingly. The assignment of specific rooms and location for each in the building, including those for use in serving students with IEPs or special education needs, will be made in consultation with the Principals of each school and the Office of Space Planning if this proposal is approved.

The BUP demonstrates that there is sufficient instructional capacity to accommodate the proposed co-location of SA – Harlem 4 in M149. As P811M@M149’s future enrollment decreases, their future allocation of space will decrease. However, in all years of the proposal (2014-2015, 2015-2016, 2016-2017, 2017-2018, and 2018-2019 school years), P811M@M149 will receive excess space above its baseline allocation of space pursuant to the Footprint.

Furthermore, this proposal maintains the current allocation of space in the building for P.S. 149 throughout the proposal. Based on current enrollment at P.S. 149, the DOE has projected that P.S. 149 will serve more students over the course of this proposal and thus is allocated more space per the Footprint and in the 2014-2015, 2015-2016, and 2016-2017 school years, P.S. 149 has been allocated space in excess of its Footprint. Currently, P.S. 149 also has three full-size rooms in excess of its Footprint, which will continue to be allocated to P.S. 149.

Although P811M@M149 and P.S. 149 will receive excess space, SA – Harlem 1 and SA – Harlem 4 will not receive excess space and certain administrative space that they would otherwise receive under the Footprint in this proposal. SACS uses different programming assumptions than the Footprint and thus is able to operate within the proposed space allocation. SACS believes that because of these different assumptions, they can adequately operate and have the ability to continue to effectively deliver instruction in the space allocated in this BUP. As a result, the DOE has determined that the proposed space allocation is feasible. For more details on space allocation, see the attached BUP. There are no other proposed uses or plans for M149/M207.

Comments 38, 39, 46(a), 46(f), 47(c), 53(b), 54(c), 55(c) express concern about future space allocations specifically regarding the special needs of P811M@M149 students.

As stated above and in the proposal, the District 75 footprint allocates P811M@M149 additional resource rooms as part of their baseline space allocation. Although P811M@M149’s future enrollment and allocation of space will decrease over five years, P811M@M149 will receive its baseline allocation of space and excess above its baseline allocation in all years of this proposal. Thus, the DOE believes that the proposed space allocation is equitable and P811M@M149 can continue to meet the needs of current and future District 75 students.

With respect to comments 10(a), 12 (c), and 12(e), and 15(b) as described in the EIS, this proposal is not expected to impact enrollment, academic options, admissions process, or extracurricular programs offered at P.S. 149.

The Footprint for schools that serve grades kindergarten through eight allows for each class section to have a homeroom, and also allocates three additional rooms for specialty instruction, such as the arts, music, theater, as well as space for administrative and student support needs. As described above and in the BUP, this proposal maintains the current allocation of space in the building for P.S. 149 throughout the proposal. In the 2014-2015, 2015-2016, and 2016-2017 school years, P.S. 149 has been allocated space in excess of its Instructional Footprint. In addition, based on current enrollment at P.S. 149, the DOE has projected that P.S. 149 will serve more students over the course of this proposal and thus is allocated more space per the Footprint. Currently, P.S. 149 also has three full-size rooms in excess of its Footprint, which will continue to be allocated to P.S. 149; as such, P.S. 149 has sufficient space to offer the programming it chooses.

With respect to comments 7(l), 21, and 55(e) the width of the hallways/stairwells varies in the building, and will, as with all co-located schools, have to be taken into account by the Building Council in considering how stairways can be used to manage student traffic. Bell schedules of co-located schools may be staggered so that transitions are not happening simultaneously for co-located schools. Building Councils Citywide use staggered instructional times to effectively program student transitions and instructional periods. There are examples of buildings Citywide that use stairwells to draw off traffic from hallways and streamline transitions. Given that there are 3 stairwells in the building, the Building Council may assign one stairwell to each school and keep one stairwell shared in order to facilitate student travel between the floors. This is a decision ultimately left up to the Building Council if this proposal is approved. The DOE anticipates that all school organizations will work collaboratively in order to ensure the safety of all students, and will work together to create a supportive learning environment for all students served in M149/M207.

Comments 5(b), 5(h), 5(l), 7(c), 8(f), 9(e), 14(n), 25, 35, 36, and 54(b) express concern that P811M@M149 students will be re-sited to other District 75 schools and to new District 75 buildings that are far from District 3.

Students currently enrolled in P811M@M149 will complete their education at P811M@M149 and will not be re-sited as a result of this proposal. New incoming kindergarten students will seek placement through the District 75 placement process, consistent with current practice. Families of District 75 elementary and middle school students seeking placement are admitted through referrals from the District 75 Placement Office and are offered a placement based on the programs outlined in their IEPs, seat availability, and geographic location of their residence. The following variables are taken into account when considering the best placement: whether the student needs a barrier-free site, whether the student requires nursing services, the student's home district, and whether the student has siblings in the articulating school.

In addition to the existing District 75 schools across Manhattan, there are three new school buildings opening in 2013-2014 and 2014-2015 that will be able to accommodate new District 75 students. Based on the School Construction Authority's Program of Requirements for each new building in Manhattan, these three new school buildings have a combined target capacity to serve 180 District 75 students.

P811M@M149 will continue to admit future students through the District 75 referral process and serve students according to their IEPs. Although it is possible that future District 75 students may be assigned to a location further away from their residence, a large number of current P811M@M149 students are not District 3 residents; this means that there may be District 75 schools in other districts closer to home or just as close for future students. The District 75 Placement Office will continue to work with families to find the most suitable placement for future District 75 students.

Although future enrollment at P811M@M149 will be reduced by three sections over five years, there are two other programs in District 3 that serve District 75 students with autism and two of the three new school buildings mentioned above plan to serve District 75 students with autism. It is important to note that District 75 constantly reviews and adjusts programs to respond to students' changing needs over time.

With respect to comment 8(g) the DOE and Office of Pupil Transportation cannot accurately predict how long District 75 students will spend on a bus as their placement is based on the programs outlined in their IEP, seat availability, and geographic location of their residence. If this proposal is approved, the Office of Pupil Transportation will work with the school organizations to identify the most appropriate plan for picking-up and dropping-off students.

With respect to comment 14(m) like district schools, charter schools administer the New York State assessments each year, and are issued Progress Reports by the DOE. As described in the EIS, this data provides evidence that SACS are successful schools.

Comments 12(a), 12(b), 27, 55(f), and 55(g) express concern about the shared space schedule and access to shared spaces in the building.

According to the 2012-2013 Campus Audit, P.S. 149 has breakfast from 7:30 a.m. – 8:35 a.m. in the small cafeteria, from 8:00 a.m. – 8:30 a.m. in the small gymnasium, and from 7:45 a.m. – 8:35 a.m. in the auditorium, for a total of 135 minutes per day. P.S. 149 has lunch from 10:40 a.m. – 1:10 p.m. in the small cafeteria, for a total of 150 minutes per day. SA – Harlem 1 has breakfast from 7:15 a.m. – 7:45 a.m. in the small cafeteria and 7:15 a.m. – 7:45 a.m. in the large cafeteria, for total of 60 minutes per day. SA – Harlem has lunch from 12:10 p.m. – 1:50 p.m. in the large cafeteria, for a total of 100 minutes per day. Based on the 2012-2013 Audited Register, P.S. 149 enrolled 380 students and SA – Harlem 1 enrolled 583 students, suggesting that the 2012-2013 Campus Audit was not equitable as it allocated more time to P.S. 149 than SA – Harlem 1. Although there will be more students in M149/M207 if this proposal is approved, the DOE believes that the proposed shared schedule in the second revised BUP attached to this proposal will be more equitable for all students in the building.

The BUP puts forth a **proposed** shared space schedule for the co-located schools that is feasible and demonstrates that the co-located schools may be treated equitably and comparably in the use of shared spaces. In addition, the proposed shared space schedule tries to closely align with the schedule documented in the Campus Audit. As per the Campus Policy Memo, co-located schools on campuses must actively participate in a Building Council, which is a campus structure for administrative decision-making issues impacting all schools in the building. Only principals and charter school leaders serve on the Building Council. The Building Council meets at least once a month to discuss and resolve issues related to the smooth daily operation of all schools in the building and the safety of the students they serve. The Building Council principals and charter school leaders, where applicable, communicate their decisions campus-wide to staff, students and parents, especially for issues of safety, shared space, campus schedules, split-staff agreements and extended facility use.

The final shared space schedule will be collaboratively drafted by the Building Council if the proposed co-location is approved by the Panel for Education Policy. If conflicts emerge and progress is impaired, the Building Council will follow the dispute resolution procedures outlined in the Campus Policy Memo available at the following link: <http://schools.nyc.gov/community/campusgov>.

With respect to concerns about shared spaces in future years, the current shared spaces have been classified as shared spaces in the BUP and are not included in the allocation of space for any individual school, and therefore will continue to be shared unless the Building Council determines otherwise. No shared spaces are used exclusively by one school due to this proposal. The DOE has allocated time in the proposed shared space schedule in proportion to each school's enrollment and to minimize any overlap in the shared spaces. Thus, P.S. 149, P811M@M149, SA – Harlem 1 and SA – Harlem 4 have not been allocated overlapping times in cafeteria 1, cafeteria 2, gymnasium, auditorium, and playground 1 and playground 2. In regard to the library, although SA – Harlem 1 and SA – Harlem 4 have overlapping periods in the library, SACS believes that it can program use of that space to meet the needs of each school. In addition, according to the 2012-2013 Campus Audit, SA – Harlem 1 conducts library sessions in its classrooms and does not require access to the shared library.

Comments 5(i), 5(m), and 20 express concern that this proposal will result in overcrowding in building M149/M207.

According to the 2011-2012 Blue Book, buildings M149/M207 have a target capacity of 1,205 students. During the 2013-2014 school year, the buildings serve a total of approximately 1,104 students, yielding a building utilization rate of 92%. Based on projected enrollment, the DOE believes that there will be underutilized space in building M149/M207 beginning in the 2014-2015 school year. In 2018-2019, when SA – Harlem 4 has completed its phase-in in M149/M207 and enrollment at P811M@M149 has stabilized at a lower level, the schools in the building will serve a total of 1,396-1,593 students, yielding a projected utilization rate of 116%-132%.

Although a projected 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. In addition, charter school enrollment plans are frequently based on larger class sizes or different use of administrative space, contributing to building utilization rates above 100% while not impacting the utilization of the space allocated to the traditional public school(s) in the building.

As described above, the BUP attached to this proposal describes the allocation of space for each of the organizations in M149/M207 for the duration of the proposal. In each year of this proposal, every school in the building is allocated a number of rooms that meets or exceeds their baseline instructional allocation of space.

With respect to comments 8(c) and 55(c) as described above and in the BUP, space is allocated to schools according to the Instructional Footprint. Space is allocated to District 75 programs, such as P811M@M149, according to the DOE's District 75 Instructional Footprint ("D75 Footprint"). District 75 programs are also provided access to shared spaces such as the gymnasium, the library, the auditorium, and the cafeteria, and spaces such as occupational/physical therapy rooms, the nurse's office, etc. or provided with space for comparable purposes. Excess space allocation in buildings with co-located schools is traditionally based upon the physical location of the available space in relation to the location of each school within the building and relative enrollment of the schools.

In buildings where District 75 programs are co-located with other organizations, excess space will be equitably distributed to all organizations based on a percentage of the student enrollment, except that the excess allocations to District 75 programs are based on the number of sections of students, rather than the number of students. In regard to P811M@M149, they are allocated two half-size rooms that can be used for occupational, physical therapy, guidance/social work, speech therapy, psychiatrist, or crisis counseling; P811M@M149 can decide how to program these rooms.

In regard to P.S. 149, the non-District 75 Instructional Footprint includes allocations for self-contained special education classes as well as space for other special education support services. Principals may program their space as they see fit, and as such, the schools in M149/M207 may choose to use its excess space in the years that they are allocated excess space to serve special needs students. Students with disabilities receive services in accordance with their IEP developed for each student. Thus, services are tailored to meet the individual needs of the students with disabilities currently enrollment, and as, such may vary from year to year. All students enrolled at the schools in M149/M207 will continue to receive their mandated special education services after the implementation of the proposed co-location. As mentioned above, P.S. 149 and P811M@M149 collaborate on an inclusion program, which means that some of the children enrolled in P811M@M149 have the opportunity to be served alongside their peers at P.S. 149. The DOE anticipates that this proposal will not impact the continuation of this program.

Comments 5(d), 5(e), 5(f), 15(e), 22, and 23 are directed to SUNY and thus are not appropriate for a response from the DOE. SUNY is the SA – Harlem 1 and SA – Harlem 4’s charter authorizer and must separately approve the facilities to be used by its authorized schools.

Comment 26 refers to class size at P.S. 149 and P811M@M149.

As stated above, the DOE does not anticipate that this proposal will impact enrollment at P.S. 149. Class size is primarily a function of student enrollment, and is affected by how principals allocate their resources. As stated previously, the Footprint is the guide used to allocate space to all schools based on the number of class sections the school programs and the grade levels served by the school. The number of class sections at each school is determined by the Principal based on enrollment, budget, and student needs and there is a target class size based on the number of students in a class section for each grade level.

In regard to P811M@M149, as stated in the EIS, in conjunction with this proposal, future enrollment at P811M@M149 will be reduced by placing fewer new students in P811M@M149 each year. As P811M@M149’s enrollment stabilizes at a new, lower level, the Principal in collaboration with the District 75 Placement Office will determine how to best program students in fewer class sections based on students’ need and budget.

Comment 7(g) asserts that there will be a negative impact on staff at the schools in M149/M207 as a result of this proposal.

As student enrollment at P811M@M149 declines, the school’s staffing needs may be reduced. All excessing would be conducted in accordance with existing labor contracts. For example, the current United Federation of Teachers 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 Absent Teacher Reserve (“ATR”) pool, meaning that they would continue to earn their salary while serving as substitute teachers 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.

In regard to P.S. 149, as stated in the EIS, the proposed co-location of SA – Harlem 4 is not expected to change the number of personnel positions assigned to P.S. 149, nor is it expected to significantly alter the duties of current staff in M149/M207. No change in school supervisory or administrative positions at P.S. 149 is expected as a result of this proposal.

Comments 3(e), 13(a), and 14(b) assert that charter schools represent the privatization of education.

Charter schools are public schools available for all residents of New York City. They are publicly funded in a similar manner as district schools, but are operated by external organizations. Each school is governed by an independent board of directors. Under recent amendments to New York state law, for-profit entities may not operate new charter schools in the state. Success Academy Charter Schools are governed by a not-for-profit board of trustees. There are no for-profit charter schools in operation in New York City.

Comment 4(f), 6(i), 12 (f), 14(c), 43, 45, 50, and 57 suggest that SACS should open schools in private space.

The DOE seeks to provide space for additional education options for all students, regardless of whether students are served in DOE or public charter schools. We welcome public charter schools to lease or provide their own space, but we will offer space in DOE buildings where it is feasible to do so. The DOE does not lease space directly for charter schools; a charter school interested in parochial school or other space would have to acquire or lease that space with private funds.

In addition, the DOE does not charge charter school's rent because the DOE is allowed to charge for our "costs"; the cost associated with a co-located charter school operating in district space is \$0. The DOE is responsible for turning on the lights, and for heat and clean the building irrespective of the type – whether district or charter – of children in the building.

In regard to comments 1(a), 1(c), 1(d), 3(f), 14(j), 19, and 29 which suggest the possibility of legal action. The DOE believes that its process and this proposal comply with all applicable laws and regulations; beyond that, the DOE cannot comment on future litigation.

With regard to comments 6(f), 10(b), and 11(b) which concern cooperation and a positive culture among the students and staff: The DOE recognizes that creating a positive school culture is a priority among parents, students, and staff. The DOE is fully committed to working closely with the schools in M149/M207 to maintain a safe and secure environment in the building for all students and to create a positive culture.

Comments 6(c), 6(d), 6(e), 6(h), and 11(a) pertain to safety concerns and the potential negative impact of the co-location on the students in the M149/M207 building.

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 the changing security needs, changes in organization and building conditions and any other factors; these updates could also be made at any other time when it is necessary to address security concerns. The Committee will also address safety matters on an ongoing basis and make appropriate recommendations to the Principals when it identifies the need for additional security measures. Additionally, the Borough Safety Director will assist the campus principals with any safety concerns, internally and externally, and will provide additional support when needed. The Building Council will also handle administrative issues including matters of facility cleaning and maintenance.

As stated in the BUP attached to this proposal and documented in floor plans, each school in M149/M207 has its own dedicated floor and/or contiguous space on a floor in M149/M207. The DOE has allocated the excess space in M149/M207 so as not to disturb this current configuration and allocation of space for each of the existing schools in M149/M207. The DOE believes that this configuration will help minimize the potential negative impact of the co-location on students in the M149/M207 building. Thus, the DOE is confident that P.S. 149, P811M@M149, SA – Harlem 1, and SA – Harlem 1 will be able to create a collaborative and mutually respectful environment for all students, staff and faculty members in M149/M207.

Comment 7(f), 9(d), 14(o), 30 and 44 express concern that this proposal could lead to the phase-out of P.S. 149 or P811M@M149. As stated in the EIS, this proposal is for the co-location of SA – Harlem 4 grades five through eight in M147/M207, not for the phase-out of P.S. 149 or P811M@M149.

Comments 6(g), 14(f), and 14(g) express concern that SACS' does not serve students with special needs and forces students to return to their zoned schools.

Any child eligible for admission to a district public 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. In contrast, screened schools are able to select their students based on factors including academic achievement, attendance, teacher recommendation, and admissions tests. Zoned schools admit students based on home address, which is frequently correlated with income and parental education levels. Charter schools give preferences to students based on various factors, including, but not limited to, whether the applicant has a sibling already enrolled in the charter school, lives in the charter school's community school district, is an ELL, and/or is eligible for free or reduced price lunches.

Application rules, procedures, and deadlines for charter schools vary, but most charter schools accept applications for the following school year until April 1 and conduct admissions lotteries during the second week of April. Interested parents should contact each charter school individually to obtain an application. Many schools also post applications on their websites.

SA – Harlem 1 and SA – Harlem 4 admit students in grades kindergarten through third through a charter lottery application process as described above. For the 2014-2015 school year, SA – Harlem 1 and SA – Harlem 4 anticipate providing a lottery preference to siblings of current and accepted students and to applicants who reside within the Community School District. Under its current charter, SA – Harlem 1 and SA – Harlem 4 provides admission preference to (1) siblings of current or accepted students, (2) ELL students, and (3) applicants who reside within the Community School District. As directed by the United States Department of Education, SA – Harlem 1 is currently seeking a revision of its charter to change its admissions policy, including the lottery preferences. The proposed new preferences are: (1) siblings of current or accepted students and (2) applicants who reside within the Community School District.

In May 2010 the Charter Schools Act was amended to expressly require that charter schools demonstrate good faith efforts to attract and retain English Language Learners ("ELLs"), students with disabilities, and students eligible for free or reduced lunch at rates comparable to those of the Community School District.

Pursuant to state law, public charter schools must 1) serve all students who are admitted through their lotteries, and 2) serve a percentage of special education and English Language Learner ("ELL") students comparable to the district average. Charter schools which fail to meet the special education and/or ELL targets set by their authorizer risk being closed or having their renewal applications rejected. Charter schools must admit all students according to their lottery preferences, and may not turn away a student because of language ability, behavioral problems, or services required by an IEP.

In regard to comments 5(j) 41, 42, and 47(e) as discussed in the most recent Under-utilized Space Memorandum (as of November 20, 2012) and the addendum that was updated on August 28, 2013, on a yearly basis, the Office of Portfolio Development conducts a transparent process to publish a list of under-utilized buildings by applying consistent criteria to all school buildings across the city. Buildings that have, or are projected to have, 300 or more seats available in the next one to two years according to the Blue Book may be eligible for a co-location, among other potential changes in school utilization. The decision to propose a co-location at a particular school is based on a number of factors, including: the amount of space available upon a closer, in-person evaluation of the building; and/or, feedback from SLTs; and/or, local enrollment needs; and/or, the need for new school options; and available funding (where applicable).

A copy of the Revised Under-utilized Space Memorandum describing in detail the process for identifying under-utilized schools is available at: http://schools.nyc.gov/NR/rdonlyres/6D8EA76A-82FA-4740-9ED1-66BCABEE8BFB/134525/UnderutilizedSpaceMemorandum112012_vFINALforprint.pdf. A copy of the Under-utilized Space Memorandum Addendum is available at: http://schools.nyc.gov/NR/rdonlyres/6D8EA76A-82FA-4740-9ED1-66BCABEE8BFB/149149/UUMemorandumAddendum_August2013vFINAL.pdf

Based on projected enrollment, the DOE believes that there will be underutilized space in building M149/M207 beginning in the 2014-2015 school year. This proposal will allow current SA – Harlem 4 students in District 3 buildings M113 and M185/M208 (for the 2013-2014 school year only) the opportunity to complete their middle school education at SA – Harlem 4 in M149/M207, also in District 3. In addition, it will allow future District 3 elementary students the opportunity to attend SA – Harlem 4 from kindergarten through eighth grade.

Furthermore, in addition to M149/M207, there are additional buildings that are included on the Under-utilized Space Memorandum which means that District 3 is not necessarily overcrowded.

Comment 4(b), 4(c), 4(d), 4(e), 4(g) and 4(j) state that SACS are not high-performing options and should not be replicated.

SACS is a charter management organization that currently operates 18 public charter schools in New York City, including six new schools serving students for the first time in 2013-2014. The four SACS schools that received a Progress Report for the 2011-2012 school year all received an overall grade of A. Furthermore, on the 2012-2013 New York State exams, SACS demonstrated strong results in English Language Arts (“ELA”), math and science. Compared to all New York City schools, the seven Success Academy schools with testing grades performed in the top 2% on the state math examination and in the top 7% on the state ELA examination. Additionally 100% of Success Academy students who took the state science test passed the exams.

The DOE believes that the proposed co-location of SA – Harlem 4 grades five through eight will support parent choice by creating a long-term location for middle school students in District 3. The proposed co-location of grades five through eight of SA – Harlem 4 in M149/M207 is intended to meet those goals by ensuring that the school has sufficient long-term space to allow current SA – Harlem 4 students the opportunity to complete their middle school education in District 3 at SA – Harlem 4. In addition, it will allow future District 3 elementary students the opportunity to attend SA – Harlem 4 from kindergarten through eighth grade.

In 2013, New York State introduced new Math and ELA assessments aligned to the Common Core Learning Standards for grades 3-8. The new tests are far more rigorous than any previous test in NYC and set a far higher bar for student proficiency in reading and math, establishing a new baseline for measurement of student performance.

Under these new standards, in math, charters were 34.8% proficient, outperforming district schools, who were 29.6% proficient. In reading, charters were 25.1% proficient, compared to 26.4% citywide in district schools. However, charters outperformed their Progress Report peer schools – similar schools in terms of demographics and previous performance measures - in both subjects. In math, 79% of charter schools outperformed their peer schools and the average charter school was 3.7 percentage points more proficient. In reading, 54% of charter schools outperformed their peer schools and the average charter school was 11.0 percentage points more proficient.

In a 2012 report, the Center for Research of Education Outcomes (“CREDO”) found that, on average, academic performance growth in reading (ELA) and math was greater for NYC charter schools compared to traditional district schools. This finding was true of both charter schools being operated by charter management organizations (“CMOs”), and of independent charter schools. The better performance of charter schools was found to be statistically significant in all cases, with the exception of non-CMO charter performance in reading.

In addition, a 2009 report on New York City charter schools by Caroline M. Hoxby, Sonali Murarka, and Jenny Kang indicates that “on average, a student who attended a charter school for all of grades kindergarten to eight

would close about 86 percent of the achievement gap in math and 66 percent of the "Scarsdale-Harlem" achievement gap in English," while students who attended a traditional public school for all of grades kindergarten to eight would "not close the "Scarsdale-Harlem" achievement gap by much" (The Scarsdale-Harlem achievement gap is a term used to compare achievement levels of students from one of the most affluent New York suburbs, Scarsdale, with those of students in Harlem). The study also found that charter students were 7% more likely to earn a state Regents diploma (given to higher-achieving students) for each year they attended that charter school, versus a traditional public school in the suburbs north of the City on New York State Math and English Language Arts assessments. The study also found students were more likely to earn a state Regents diploma, given to higher-achieving students; the longer they attended charter schools.

Comments 46(d) and 46(g) concern DOE engagement with the District 3 community.

The DOE is committed to engaging with the community for all proposals to implement a significant change in school utilization, as detailed in Chancellor's Regulation A-190. Chancellor's Regulation A-190 sets out the public review and comment process that the DOE undertakes with respect to all such proposals by the Chancellor (e.g., grade reconfigurations, re-sitings, co-location of schools, or phase-outs).

The DOE appreciates all feedback from the community regarding a proposal. Prior to the proposal posting, the DOE spoke with P.S. 149's Principal and Network Leader, P811M@M149's Principal and Superintendent, Community School District 3 Superintendent and CEC 3 President and First Vice President. When the EIS and BUP for this proposal were issued, they were made available to the staff, faculty and parents at the impacted schools, on the DOE's Web site, and in the main offices of P.S. 149, P811M@M149, SA – Harlem 1 and SA – Harlem 4. In addition, the DOE dedicated a proposal-specific website, voicemail and email address to collect feedback on this proposal. Furthermore, all schools' staff, faculty, and parent communities were invited to the Joint Public Hearing to provide further feedback. The DOE considers all of the feedback received during the community engagement process and the Joint Public Hearing. In the past, in reviewing this community feedback, the DOE has both revised and withdrawn proposals in response to this input.

In regard to comments 5(q) and 5(r) according to the Education Law, the purpose of the joint public hearing is to allow all interested parties an opportunity to present comments or concerns regarding a proposal. The law does not require question-and-answer time at a joint public hearing. Regardless, the DOE attempts to accommodate requests for question-and-answer time when a reasonable format can be agreed to.

In regard to comment 15(g) the recording of the joint public hearing was in compliance with the Open Meetings Law.

With respect to comment 15(f) the EIS includes performance and demographic data for SA – Harlem 1 and SA – Harlem 4. In addition, charter schools must provide annual reports to their authorizers. Those reports include academic, financial, and ELL and SWD recruitment efforts. The reports should be available on the website for the school.

Comments 5(g) and 10(e) question why M149/M207 was proposed as the long-term site for SA –Harlem 4.

If this proposal is approved, SA – Harlem 4 will serve students in grades five through eight in M149/M207, a location it is familiar with since it served fifth-grade students in that location for the 2012-2013 school year. Because SA – Harlem 4 is already familiar with M149/M207 and will serve students in grades five through eight in a portion of SA – Harlem 1's allocation of space, the DOE does not believe that this re-siting will be disruptive to the schools in M149/M207. Furthermore, P.S. 149 is projected to serve a similar number of students as are currently being served and will be allocated the same amount of space throughout the proposal. Although P811M@M149's space allocation will decrease as a result of their enrollment reduction, they will continue to receive their baseline allocation of space and excess space in certain years. Therefore, the DOE believes that the schools will be able to continue their relationship. However, if conflicts emerge and progress is impaired, the Building Council will follow the dispute resolution procedures outlined in the Campus Policy Memo available at the following link:

<http://schools.nyc.gov/community/campusgov/KeyDocuments/CampusMemo.htm>.

Although the original proposal was for a temporary co-location of SA- Harlem 4 in M149/M207, the DOE believes that the proposed co-location of SA – Harlem 4 grades five through eight will support parent choice by creating a long-term location for middle school students in District 3. The proposed co-location of grades five through eight of SA – Harlem 4 in M149/M207 is intended to meet those goals by ensuring that the school has sufficient long-term space to allow current SA – Harlem 4 students the opportunity to complete their middle school education in District 3 at SA – Harlem 4. In addition, it will allow future District 3 elementary students the opportunity to attend SA – Harlem 4 from kindergarten through eighth grade.

Comments 4(h), 4(i), and 14(h) concern the availability of resources for DOE schools and the contention that charter schools have inequitable access to additional resources and funds.

With regard to funding and other resources, charter schools receive public funding pursuant to a formula created by the state legislature and overseen by the New York State Education Department. The DOE does not control this formula, and the funding formula for SACS is not affected by the approval or rejection of this proposal. Charter management organizations, just like any other school citywide, may also choose to raise additional funds and can decide how to best use those funds. However, pursuant to Chancellor’s Regulation A-190, 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.

With respect to concerns that charter schools “funnel” resources away from DOE schools, it should be noted that charter schools receive public funding based on their student enrollment, as do DOE schools. To the extent that a student opts to attend a charter school rather than a particular DOE school, that DOE school’s enrollment may decline, resulting in less per student funding. However, this very same result occurs whenever a student decides to attend a different DOE school. In this regard, the impact of a parent selecting a charter school is no different than the impact of a parent selecting a DOE school other than the child’s zoned option. The DOE believes the ability of parents to choose where they wish their child to attend school is of paramount importance, and is committed to increasing the options available to families.

Changes Made to the Proposal

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