

Public Comment Analysis

Date: October 14 2013

Topic: The Proposed Co-Location of a new Public Elementary Charter School, Success Academy Charter School – New York 4 (84KTBD) Grades K-4, with Existing School J.H.S. 78 Roy H. Mann (22K078) in Building K078 Beginning in 2014-2015

Date of Panel Vote: October 15, 2013

Summary of Proposal

On August 29, 2013, the New York City Department of Education (“DOE”) issued an Educational Impact Statement (“EIS”) and Building Utilization Plan (“BUP”) describing a proposal to site the kindergarten through fourth grades of Success Academy Charter School – New York 4 (84KTBD, “SA- New York 4”) in building K078 (“K078”), beginning in the 2014-2015 school year. K078 is located at 1420 East 68th Street, Brooklyn, NY 11234 in Community School District 22 (“District 22”). If this proposal is approved, SA- New York 4 will be co-located in K078 with J.H.S. 78 Roy H. Mann (22K078, “J.H.S. 78”), an existing middle school serving students in grades six through eight.

On October 11, 2013, the EIS and BUP were amended to clarify that if this proposal is approved, SA- New York 4 will open in September 2014, serving 180-220 students in kindergarten and first grades, and will add one grade level each year until it serves approximately 450-600 students in kindergarten through fourth grades in the 2017-2018 school year. The first page of the original EIS and BUP incorrectly stated that SA- New York 4 would serve 120-180 students in kindergarten and first grade in September 2014 and approximately 375-450 students in kindergarten through fourth grade in the 2017-2018 school year, although the enrollment charts, building utilization calculations, and space allocation charts all contained the correct enrollment information for SA-New York 4. The school will admit students via the charter lottery application process, with preference given to District 22 residents.

SA- New York 4 has submitted a preliminary application for charter authorization to the State University of New York Trustees (“SUNY”) to serve students in kindergarten through fifth grades. This proposal deals only with the kindergarten through fourth grades of SA- New York 4. Any future proposal to co-locate additional grade levels of SA- New York 4 in K078 would be addressed in a separate EIS and subject to approval by the Panel for Educational Policy (“PEP”). The proposal to open and co-locate SA- New York 4 in building K078 is contingent upon SUNY’s approval of SA- New York 4’s application for charter authorization. If SUNY does not approve SA- New York 4’s charter application, this proposal will not be implemented. For the purposes of this proposal, it is assumed that SUNY will approve SA- New York 4’s application.

Success Academy Charter Schools (“SACS”) is a charter management organization (“CMO”) that currently operates 18 public elementary charter schools in New York City, six of which opened in the 2013-2014 school year. The four SACS elementary schools that received a Progress Report for the 2011-2012 school year all received an overall grade of A.

Currently, the DOE is also planning to reduce the enrollment at J.H.S. 78 over a period of three years beginning in September 2014. Details of the year-by-year reduction are included in Section IV of the amended EIS. By 2016-2017, enrollment at J.H.S. 78 will decrease by approximately 160-190 students so that it will serve approximately 795-825 students at scale in sixth through eighth grades.

Regardless of whether this co-location proposal is approved, the DOE will still pursue the enrollment reduction at J.H.S. 78 beginning in September 2014

According to the 2011-2012 Enrollment, Capacity, Utilization Report (“Blue Book”), K078 has a target capacity of 1,277 students. The building is currently serving approximately 983 students yielding a building utilization rate of 77%.

The DOE believes there will be sufficient space in building K078 to accommodate J.H.S. 78 and SA-New York 4. In 2017-2018, once J.H.S. 78 has completed its enrollment reduction and SA- New York 4 has completed its phase-in, it is projected that there will be approximately 1,245-1,425 students served in K078, thereby yielding an estimated utilization rate of 97%-112%.

Although a 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 than target capacity, contributing to building utilizations above 100%, while not impacting the utilization of the space allocated to the traditional district school. Please refer to the BUP for a more detailed description of the available space in K078.

Summary of Comments Received at the Joint Public Hearings

A joint public hearing regarding the proposal was held at J.H.S. 78 on October 8, 2013. At this hearing, interested parties had an opportunity to provide input on the proposal. Approximately 715 members of the public attended the hearing, and 63 people signed up to speak. Present at the meeting were District 22 Community Superintendent Dr. Rhonda Farkas; District 22 Community Education Council (“CEC 22”) President Deborah Perkins; District 22 President’s Council President Mary Nolan; J.H.S. 78 School Leadership Team (“SLT”) representatives Principal Anthony Cusumano, Christine Kroening, and Justin Schoen; Council Member Lewis Fidler; Assembly Member Alan Maisel; State Senator John Sampson; New York City Council Member Letitia James; Kings County Democratic Party Chairman Frank Seddio; and Lily Haskins and Timothy Castanza from the Division of Portfolio Planning.

The following comments and remarks were made at the joint public hearing on October 8, 2013 on the proposal:

- 1) CEC 22 member Deborah Perkins expressed opposition to the proposal and to the enrollment reduction at J.H.S. 78. In addition, she made the following statements in support of J.H.S. 78:
 - a) She believes that J.H.S. 78's new principal is strong, great with the students, great for the community and will lead the school to great academic success.
 - b) She predicted that parents will be involved in the school.
- 2) Mary Nolan from District 22 President's Council expressed opposition to the proposal and stated that she does not believe charter schools are needed in District 22.
- 3) Principal Cusumano stated that since he became principal at J.H.S. 78, there has been a renaissance; people are working harder than they ever have, the school has made great strides over the past several months, and he hopes to continue the success at the school.
- 4) Christine Kroening, a representative from the SLT, made the following comments:
 - a) She was disappointed that PEP members were not present at the hearing.
 - b) She understood that J.H.S. 78 has previously received a bad Progress Report grade, but she attributed it to a poor principal and superintendent. She stated that the school now has an unbelievable superintendent and a superstar principal.
 - c) She does not believe placing an elementary school in the building with a middle school can help J.H.S. 78.
- 5) Justin Schoen, a representative from the SLT expressed opposition to the proposal and stated that J.H.S. 78 has provided a tremendous benefit to the community for over 50 years.
- 6) Assembly Member Alan Maisel made the following comments:
 - a) He expressed opposition to placement of a Success Academy in District 22 because it will drain the local schools of the best students.
 - b) He asserted that the DOE's decision-making process does not take into account the comments made at the joint public hearing, but rather is driven by political considerations. He stated that SACS' Founder and CEO, Eva Moskowitz, has close ties to Chancellor.
 - c) He asserted that the proposal would be stopped by the de Blasio administration.
 - d) He blamed the DOE for the fact that J.H.S. 78 has had five principals over the last several years.
- 7) City Council Member Lewis Fidler made the following statements:
 - a) He opposes the proposal.
 - b) He does not believe the DOE takes the comments made at the joint public hearing into account, as evidenced by the fact that Deputy Chancellors used to come to the hearings, but now a director of Office of Portfolio Management is at the hearing. In one case, we convinced the DOE to change their mind on a proposal
 - c) He did not understand the rationale for the proposal.
 - d) There are 52 proposals that they're trying to push through. Of the 52, 22 involve charter schools and 8 of these are for Success Academy, which is 37%.

- e) He requested that the press should investigate why 8 Success Academy proposals are being shoved down into public space buildings in the last days of the Bloomberg administration. He contended that Mayor Bloomberg, Eva Moscovitz and Dennis Walcott made a deal.
 - f) Why would you put the school community through the aggravation of this process when the new administration is going to stop this?
 - g) He inquired as to who is accountable for the assignment of five different principals at J.H.S. 78.
- 8) State Senator John Sampson stated that his mother taught at J.H.S. 78 for 20 years, and thanked Principal Cusumano for all the hard work he has done.
- 9) Chairman of the Kings County Democratic Party Frank Seddio said the following:
- a) He loves J.H.S. 78 and the programs it offers, especially the cooking one. He also stated that he married one of the assistant principals.
 - b) He claimed that the DOE deliberately assigned bad principals to J.H.S. 78 before proposing the co-location.
 - c) The DOE tried to close P.S. 114 and we fought to keep that school open.
 - d) He vowed to fight the proposal along with Council Member Fidler and Assembly Member Maisel.
- 10) City Council Member Letitia James made the following comments:
- a) J.H.S. 78 has had 7 principals in the last 10 years. This is an example of mismanagement by the DOE which created instability that contributed to the demise of this great school.
 - b) The feeder schools in District 22 are not over capacity, so adding another elementary school to the district is not needed, and will cause competition for students.
 - c) Additionally, Success Academy will be given a gifted and talented class while the DOE removes the gifted and talented programs from J.H.S. 78's feeder elementary schools.
 - d) Charter schools destabilize community schools by causing competition.
 - e) Some of the proposed co-locations will not open until 2015, but the DOE is asking us to vote in 2013 for charter schools who will be permanently housed in our district public schools.
- 11) Multiple commenters stated that they are alumni of the school, and that the school has done wonderful things for them.
- 12) Multiple commenters expressed their support for the current principal and Superintendent, stating that previous leaders in the building and at the district level did not support the school sufficiently.
- 13) Multiple commenters stated that the new principal has a strong vision for the school and that they believe that under his leadership, the school will be able to grow and flourish.
- 14) Multiple commenters asked the DOE to give J.H.S 78 more time under the leadership of the new principal and superintendent.
- 15) Multiple commenters expressed their opposition to charter schools in the community.
- 16) Multiple commenters stated that they feel their voice has not been heard throughout the A-190 process.
- 17) Multiple commenters opposed to the proposal because they do not want to lose access to special programming in the building such as the culinary arts program.
- 18) Multiple commenters opposed the proposal because they feel it would be unfair to lose after school programs and staff in order to accommodate a charter school.

- 19) Multiple commenters stated that the Shared Space Plan in the Building Utilization Plan did not accurately reflect current programming at J.H.S. 78.
- 20) Multiple commenters stated that the proposal was unnecessary due to the high performance of the current elementary schools in the district.
- 21) Multiple commenters referenced the high percentage of students in the building receiving Special Education services and expressed concern over Success Academy's policy for providing Special Education services.
- 22) Multiple commenters stated their support for the current school staff and expressed concern that many of these staff members would be removed due to decreased budget and enrollment as a result of the proposal.
- 23) Multiple commenters expressed concern over the impact that the proposal would have on the elementary schools in the community.
- 24) Multiple commenters asked why the DOE plans to decrease the enrollment at J.H.S. 78 instead of encourage growth of the school.
- 25) Multiple commenters expressed concern over having an elementary school co-located with a middle school.
- 26) Multiple commenters expressed opposition to Success Academy Charter Network's inclusion in the District 22 community.
- 27) One commenter noted that though the enrollment reduction is a consequence of receiving three C's on their Progress Report, those grades are the result of having several principals at J.H.S. 78. Now that the school has a great principal, the DOE should delay the implementation of the enrollment reduction and give the school time to improve.
- 28) One commenter asked who will guarantee that the after-school programs at J.H.S. 78 are not impacted, and if they are impacted, what alternative after-school programs are available.
- 29) One commenter expressed concern over how Success Academy will serve special education students. The commenter stated that Success Academy Charter Network only has 2.1% students with IEPs while the Citywide average is 7.7%. They also stated that Success Academy Charter Network only has 6% ELL students while the Citywide average is 14%.
- 30) One commenter asked what will happen to students who seek to enroll at J.H.S. 78 once the school reaches its reduced seat target. The commenter also asked if the enrollment reduction would result in the loss of magnet program students.
- 31) One commenter expressed confusion over several points in the EIS and BUP:
 - a) He stated that the website for Success Academy indicates the charter school will serve grades K-5 at J.H.S. 78, but the EIS states the school will serve grades K-4.
 - b) He also stated that the Public Notice for the proposal says there will be 675 students at the Success Academy, while page 1 of the EIS says the school will serve 375-450 students, and page 10 of the BUP indicates a projected enrollment of 465 students.
- 32) One commenter stated that many of the businesses in the community are opposed to the proposal and that they are very happy with the new leadership in the school.
- 33) One commenter questioned Success Academy's high suspension rates compared to the elementary schools in the district.

- 34) One commenter asked why, as an alternative to the reduction enrollment, the Department of Education did not consider a proposal similar to that of Mark Twain elementary school in 1972, which was converted into a citywide Magnet Program, and now has high enrollment.
- 35) One commenter inquired why the DOE will implement the enrollment reduction regardless if the proposal is passed.
- 36) One commenter asked about the process for identifying buildings to house co-locations. He noted that there are other schools in the district that have lower utilization rates than J.H.S. 78.
- 37) One commenter asked why the DOE issues proposals that involve schools being “over-utilized.”
- 38) One commenter stated that the school environment has improved under the leadership of new principal and that is not reflected on the previous progress reports.
- 39) One commenter stated that charter schools are not mandated to have Emergency Response Plans similar to other New York City Public Schools.

The DOE received comments at the Joint Public Hearing which did not directly relate to the revised proposal and therefore, will not be addressed.

- 40) Assembly Member Alan Maisel feels that the Department of Education is anti-public school.
- 41) Council Member Lewis Fidler did not understand why several co-location proposals have been issued just before a new administration, which clearly opposes co-locations, takes office.
- 42) Councilmember Leticia James said:
 - a) That the decisions made by SUNY and the DOE to co-locate charter schools with public schools are misguided.
 - b) The Mayor’s agenda has systematically undermined the public education process system.
 - c) She is joining the United Federation of Teachers lawsuit to stop the DOE from starting these co-locations.
 - d) The Mayor’s policy has created an unlevel playing field, providing charter schools with free rent and resources while our public schools are lacking.
 - e) She said if we are serious about providing high quality education for our children, we no longer can afford to ignore educators and parents.
- 43) State Senator John Sampson said he opposes the co-location of charter schools in the city.

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

118 written comments and 13 voicemail comments were submitted to the DOE regarding this proposal.

- 44) Multiple commenters expressed their general opposition to charter schools being placed in the district.
- 45) Multiple commenters expressed their opposition to the co-location of Success Academy with J.H.S. 78.
- 46) Multiple commenters expressed their support for the current principal.

- 47) Multiple commenters expressed concern over the impact that the proposal will have on current elementary schools that feed into J.H.S. 78.
- 48) Multiple commenters expressed concern that the proposal will cause a loss of after school programming and space at J.H.S. 78 Roy H. Mann
- 49) Multiple commenters stated the proposal does not serve the community.
- 50) Multiple commenters asked that the proposal be withdrawn.
- 51) Multiple commenters expressed concern over Success Academy Charter Network's services provided to Special Education students.
- 52) Multiple commenters stated that additional funding should be provided to J.H.S. 78 Roy H. Mann rather than to the co-location of Success Academy.
- 53) Multiple commenters expressed concerns over sharing current space in the building.
- 54) One commenter stated that four of J.H.S. 78's feeder schools (P.S. 236, P.S. 203, P.S. 312, and P.S. 251) all had gifted programs removed due to budget cuts. The commenter further states that these schools would all welcome and appreciate the re-implementation of these programs.
- 55) One commenter asked why the Department of Education does not propose an intervention to boost enrollment in the current, well performing elementary schools in the district rather than propose a new elementary charter option.
- 56) One commenter stated the following:
 - (a) J.H.S. 78 is being targeted for co-location due to unstable leadership in the past.
 - (b) The DOE has been reducing the enrollment at J.H.S. 78 for the past few years and inquired as to why the proposal reduces it further.

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

Comments 2, 5, 7(a), 7(c), 9(d), 15, 26, 42, 43, 44, 45, 49, 50, and 52 express general opposition to the proposal, and opposition to charter schools in District 22, generally, and propose that more resources should be made available for other District 22 schools.

The DOE believes there is a need for increased options for students in Brooklyn, including those students located in District 22. The DOE strives to ensure that all students in New York City have access to various educational options at every stage of their education. This proposal aims to provide a new option for these students.

The DOE believes in SACS's record of success and supports the permanent placement of a SACS charter school in District 22. SACS is a charter management organization that currently operates 18 public charter schools in New York City, including six new public elementary schools that will begin serving students in 2013-2014. SACS schools have a strong track record of academic achievement: each of the four SACS elementary schools that received a Progress Report in 2011-2012 earned an overall score of A. Furthermore, on the 2012-2013 New York State Exams, SACS demonstrated strong results in ELA, math, and science. The seven SACS 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 SACS students who

took the state science test passed the exam. The co-location of a public charter school does not impact the resources available to other District 22 schools, other than by enrolling students who might have attended those schools. The DOE supports parent choice and is committed to providing different educational options to communities. Charter schools are also public schools, and thus represent a distinct alternative for parents who are not satisfied by the DOE options available.

Comments 9(a) and 11 state support for the current school and the programs offered.

The DOE acknowledges that J.H.S. 78 has many popular programmatic offerings. As indicated in the EIS, J.H.S. 78 will continue offering student athletics and other extra-curricular program options, but the number and range of programs offered may gradually diminish due to declining student enrollment as a result of the enrollment reduction. Again, it is difficult to predict precisely how those changes might be implemented as decisions will rest with school administrators and.

Comment 39 states that charter schools are not mandated to have Emergency Response Plans similar to other New York City Public Schools.

Charter schools are bound by New York State's SAVE (Safe Schools Against Violence in Education) law. One of the requirements of SAVE is that school districts develop, review, and regularly update school safety plans at the district and building level. Charter schools must submit these plans to the New York State Education Department.

A campus safety plan is also created amongst the schools in a building. As described in the BUP, pursuant to Chancellor's Regulation A-414, every school/campus must have a School Safety Committee. The committee plays an essential role in the establishment of safety procedures, the communication of expectations and responsibilities of students and staff, and the design of prevention and intervention strategies and programs specific to the needs of the school. The leader/designee of SA- New York 4 will be part of the K078 School Safety Committee. As a member of the School Safety Committee, the leader/designee of SA- New York 4 will participate in the development of the building's School Safety Plan and ensure that any security related issues or needs which may arise with respect to the co-location of SA- New York 4 will be addressed on an ongoing basis. Moreover, the School Safety Plan for the K078 school building will be modified as appropriate to meet any changing security needs associated with the co-location. The leader/designee of SA- New York 4 will enter information in the K078 schools' overall School Safety Plan to ensure the safe operation of the school building.

Comments 4(c) and 25 express concern over the co-location of elementary students in a building 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 buildings or campuses in New York City. These examples include:

- Building K324 currently houses three schools: M.S. 267, an existing middle school serving students in grades sixth through eight, La Cima Charter school, a charter elementary school serving students in grades K-5, and Bedford Stuyvesant Collegiate, an existing charter secondary

school, which is currently in the process of growing to serve students in grades 5-12. Members of the building council worked together to secure financing from KaBOOM to resurface the schoolyard and playground for all of the children at K324.

- The Julia Richman Educational Complex, which houses four small high schools, a K-8 school, and a District 75 program;
- Building M092 currently houses three schools: St. Hope Leadership Academy Charter School, a charter middle school serving students in grades fifth through eighth, P.S. 92, a district elementary school which serves students in grades K-5, and Democracy Prep Charter School, a charter high school serving students in ninth through twelfth grade.

There are successful examples of K-8 buildings or campuses across the City, such as The Shirley Tanyhill School and The Magnet School for Math and Science Inquiry. There are also numerous private schools Citywide that operate K-12 in a single building. The DOE is not aware of any increase in the number or severity of disciplinary problems at the DOE campuses where elementary and high school students are co-located. Furthermore, the DOE has no reason to believe that mixed grade level co-locations result in an increased of instructional or administrative demands on school administrators or staff.

Comments 1(a, b), 3.4(b), 8, 12, 13, 14, 32, 38, and 46 express confidence in the vision of the school's new principal and ask the DOE for additional time to allow the school to grow and flourish before implementing the proposal.

The DOE does not anticipate that this proposal will preclude the new leader from improving the learning environment at J.H.S. 78. The enrollment reduction is intended to provide an opportunity for J.H.S. 78 to concentrate on a smaller cohort of students, as well as allow for a new school option to develop in building K078.

Comments 4(a), 6(b), and 7(b) concern the Panel for Educational Policy's review and consideration of public comments.

PEP members are not required to attend joint public hearings. Consistent with State Education Law 2590-h(2-a) and Chancellor's Regulation A-190, the DOE solicits public comment on a proposal and then issues an Analysis of Public Comment in advance of the Panel vote. The analysis addresses all comments received at the hearing and through the dedicated e-mail address and voicemail number. That analysis is published on the DOE's website and also provided to the Panel. Additionally the Panel receives comments on proposals at the PEP meeting before it votes on a proposal.

Comment 36 concerns the process by which school building are identified for co-locations.

Building space is scarce in many New York City neighborhoods. Given this reality and the growing enrollment needs of our 1.1 million students, we must use our existing public school buildings in the most efficient manner possible. We must also work to ensure that students and families in every community have high-quality educational options.

To this end, each year the DOE's Division of Portfolio Planning publishes and requests school and community feedback on building utilization information and potential changes. Building K078 was

identified as underutilized pursuant to the November 20, 2012 Revised Under-utilized Space Memorandum, available at http://schools.nyc.gov/NR/rdonlyres/6D8EA76A-82FA-4740-9ED1-66BCABEE8BFB/134525/UnderutilizedSpaceMemorandum112012_vFINALforprint.pdf. As explained in the memo, buildings were identified as eligible for a co-location if they had at least 300 seats available according to the 2011-2012 Blue Book, or at least 300 seats were projected to be available over next 1-2 years. Ultimately, final decisions by Portfolio regarding any proposed significant change in space utilization will be 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 School Leadership Teams; and/or, Local enrollment needs; and/or, The need for new school options; and available funding (where applicable).

Comment 37 relates to the rationale behind issuing proposals which may result in a building utilization rate in excess of 100%.

As described in the EIS, the DOE's projected utilization rates for the 2013-2014 school year and beyond are based on the 2011-2012 target capacity, which assumes that the components underlying that target capacity (scheduled use of classrooms, goal maximum classroom capacity, etc.) remain constant.

Thus, projected utilization rates for 2013-2014 and beyond provide only an approximation of a building's usage because each of the factors underlying target capacity may be adjusted by principals from year to year to better accommodate students' needs. For example, changing the use of a room from an administrative room to a homeroom at the high school level will increase a building's overall target capacity because high school administrative rooms are not assigned a capacity. Holding enrollment constant, this change would result in a lower utilization rate. Similarly, if a room previously used as a kindergarten classroom is subsequently used as a fifth grade classroom, the building's target capacity would increase because we expect that a fifth grade class will have more students than a kindergarten class.

This is reflected in the fact that the DOE's goal for maximum classroom capacity is higher for fifth grade classrooms than for kindergarten classrooms. In this example, as well, assuming enrollment is constant, the utilization rate would decrease.

Despite the possibility of a utilization rate slightly over 100%, the building has sufficient space to provide both schools with at least their baseline room allocations. Although a 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 than target capacity, contributing to building utilizations above 100% while not impacting the utilization of the space allocated to the traditional public school.

As indicated in the amended BUP, once SA-New York 4 has completed its phase-in and J.H.S. 78 has completed its enrollment reduction, each school will receive its baseline (or adjusted baseline) allocation of space despite a utilization rate in excess of 100%.

Comments 6(c), 7(d, e, f), 10(e), and 41 question why the DOE has issued proposals for implementation in the 2014-2015 school year.

All proposals for the October 15th PEP vote, and those to be voted on at the October 30th PEP, represent a continuation of DOE's strategy to increase access to high quality schools in communities that need better options for the 2014-2015 school year. Consistent with this, the PEP already approved 23 proposals for September 2014 implementation during the May and June 2013 PEP meetings.

The development of these 2014-2015 proposals reflects our extensive strategic planning to advance our proven strategy of bringing high quality district and charter schools online, as well as our desire to allow the maximum allotment of time for communities and educators to work towards their successful implementation.

Forward planning allots more time for:

- School/leaders to meet each other; and
- Office of Space Planning to plan school placement and implement any needed facilities upgrades; and
- Charters to submit proposals for facilities matching; and
- Division of Facilities to review and conduct work on approved proposals.

Comment 20 states the proposal is unnecessary because there are a sufficient number of high –quality elementary schools with additional capacity in District 22. Furthermore, comments 6(a), 10(b, d), 23, and 47 assert that the co-location of Success Academy- New York 4 will have a negative impact on the community's other elementary schools by decreasing enrollment at those schools.

District 22 has a number of high performing elementary schools. However, the 2012-2013 audited enrollment data indicates an increase in demand for District 22 elementary school seats as compared to the prior year. Additionally, the DOE notes there is a need for increased options for students in the Brooklyn, including those students located in District 22. The DOE strives to ensure that all students in New York City have access to various educational options at every stage of their education. This proposal aims to provide a new option for these students.

The DOE believes in SACS's record of success and supports the permanent placement of a SACS charter school in District 21. SACS is a charter management organization that currently operates 18 public charter schools in New York City, including six new public elementary schools that will begin serving students in 2013-2014. SACS schools have a strong track record of academic achievement: each of the four SACS elementary schools that received a Progress Report in 2011-2012 earned an overall score of A. Furthermore, on the 2012-2013 New York State Exams, SACS demonstrated strong results in ELA, math, and science. The seven SACS 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 SACS students who took the state science test passed the exam.

SA-New York 4 will be open to students throughout District 22 via a lottery process, which reduces the likelihood that the proposal will have a material impact on any particular zoned elementary school in the district.

Comment 16 contends that the DOE did not adequately engage with the community on the proposal.

Consistent with applicable statutes and regulations, the DOE solicited public comment via a joint public hearing, as well as through a dedicated voicemail number and e-mail address. The DOE will continue to listen to community feedback consistent with Chancellor's Regulation A-190. Indeed, as described above, more than 700 members of the public attended the joint public hearings concerning the proposal, and the DOE received scores of comments via its dedicated e-mail address. This indicates that the community had adequate notice of the proposal and a meaningful opportunity to comment on it.

Comments 24, 27, 30, 35, 55, and 56(b) concern the rationale for, and impact of, reducing the enrollment at J.H.S. 78. Certain of these comments also propose that the available space in K078 should be utilized to increase the number seats at J.H.S. 78.

Contrary to the contention that the DOE has been reducing J.H.S. 78's enrollment for the past several years, the DOE has not previously intervened in that school's enrollment. Enrollment has been naturally declining at J.H.S. 78 over the last five years. From 2008-2009 to 2012-2013, the school's total enrollment decreased by 11%, and enrollment is expected to further decrease this upcoming school year. There is no current data which suggests that there is an increase in demand for J.H.S. 78 seats.

As stated in the EIS, the DOE is planning to reduce the enrollment at J.H.S. 78 over a period of three years beginning in September 2014. By 2016-2017, enrollment at J.H.S. 78 will decrease by approximately 160-190 students so that it will serve approximately 795-825 students at scale in sixth through eighth grades. The enrollment reduction is intended to provide an opportunity for J.H.S. 78 to concentrate on a smaller cohort of students, and allow for a new school option to develop in building K078.

Regardless of whether the co-location proposal is approved, the DOE will still pursue the enrollment reduction at J.H.S. 78 beginning in September 2014. The enrollment reduction of J.H.S. 78 is driven by J.H.S. 78's performance. J.H.S. 78 received an overall C grade on its Progress Report in 2011-2012 for the third consecutive year. Additionally, in 2011-2012, the school received a D grade in School Environment.

All current J.H.S. 78 students will have the opportunity to finish their middle school education at J.H.S. 78. Furthermore, the DOE ensures that there are multiple options for students in District 22 to complete their middle school education.

With respect to comment 30's inquiry about the impact of the proposal on future enrollment at J.H.S. 78, as discussed in the EIS, J.H.S. 78 enrolls students into four middle school programs through the middle school application process using three different admissions methods: a zoned program; two screened programs, Excelsior Academy and Center for Advanced Placement; and one test program, Center for Intellectually Gifted. The zoned program offers priority to students residing in the K078 zone.

Admission to the two screened programs and the test program is based on a review of attendance, punctuality and grades. In addition, to be eligible for the Center for Intellectually Gifted program, students must take the Otis- Lennon School Ability Test, and should have a combined score of 1371 on the Grade 4 NYS Examinations in English Language Arts (“ELA”) and Math.

This proposal will not impact the methods by which J.H.S. 78 currently admits students, however the enrollment reduction will decrease the number of available seats in the zoned and screened admissions programs. Students participating in the middle school choice application process who rank and/or apply to (as applicable), but are not matched to, one of those programs, will receive an offer for a different middle school program. J.H.S. 78’s zoned program will continue to offer priority to all zoned students who rank that program on their application, and will continue to offer sufficient seats to satisfy historical zoned demand for that program. To the extent that a student does not receive an offer to one of J.H.S. 78’s screened programs, it should be noted that there are seven other middle school options in District 22 that collectively offer several screened programs similar to Excelsior Academy and Center for Advanced Placement (the two screened programs at J.H.S. 78): J.H.S. 14 Shell Bank, J.H.S. 234 Arthur W. Cunningham, J.H.S. 240 Andries Hudde, J.H.S. 278 Marine Park , I.S. 381, P.S./I.S. 109, and I.S. 206 Joseph F. Lamb. As stated in the EIS, the enrollment reduction will not impact the test program at J.H.S. 78.

Comments 17, 18, 22, 28, and 48 express concern that the culinary arts program, after school programming, staff may be lost as a result of the proposal.

As stated in the EIS, the DOE does not anticipate that the proposed co-location will affect the extra-curricular programs or partnerships currently offered at J.H.S. 78. J.H.S. 78 will continue offering student athletics and other extra-curricular program options, but the number and range of programs offered may gradually diminish due to declining student enrollment as a result of the enrollment reduction. Again, it is difficult to predict precisely how those changes might be implemented as decisions will rest with school administrators and will be made based on student interests and available resources. That is true for any City school as all schools modify extra-curricular offerings annually based on student demand and available resources.

As a result of the enrollment reduction, the total number of students enrolled at J.H.S. 78 will decline each year, meaning that the school’s budget will decrease each year, and the school will need fewer teachers and fewer supplies to meet the needs of its smaller student population.

If for some reason the overall school enrollment grows again, the overall budget will increase accordingly. In any case, funding will be provided in accordance with enrollment levels, allowing the school to meet the instructional needs of its student population. This is how funding is awarded to all schools throughout the City, with budgets naturally increasing or decreasing as enrollment fluctuates from year to year.

Please refer to the Fair Student Funding (“FSF”) Guide¹ and FY14 School Allocation Memoranda² for additional information on cost of instruction. Staffing changes are at the discretion of the school within the limits of contractual and mandated obligations.

Comments 21, 29, and 51 concern SACS’ provision of services to students with special needs.

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.

The DOE’s annual Progress Report compares school performance with the 40 schools serving the most similar student populations. The Progress Report also provides “extra credit” to schools that succeed at helping ELL and Special Education students achieve. Thus, the incentive is for schools to serve its ELL and Special Education students well, and a school is not advantaged by having a lower enrollment of ELL and Special Education students.

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.

The actual number of students with IEPs served by existing Success Academy schools varies by school. SACS will learn which of its admitted students already have IEPs and will assess its students that may need IEPs. It is not possible to determine the percentage of students with IEPs at this time. SACS is expected to provide all required support services to its students. The charter authorizer is responsible for determining the school’s compliance with its charter.

Comments 10(c) and 54 relate to Gifted and Talented programming available at J.H.S. 78’s feeder elementary schools.

Gifted & Talented (G&T) programs in NYC public schools are separate schools or classes for students to learn at an advanced pace or level. The DOE assesses G&T programming in each district annually and recommends adding sections based on an increase in qualifiers and applicants, and to replace programs that are in the process of phasing out. This proposal will not impact the process by which DOE assess G&T programming. Contrary to the contention that SA-New York 4 will be given a G&T class, charter schools are not permitted to limit admission based on intellectual ability or measures of achievement or aptitude, among many other prohibited bases for admission.

¹ The FSF Guide is available at:

http://schools.nyc.gov/offices/d_chanc_oper/budget/dbor/allocationmemo/fy13_14/FY14_PDF/sam01_1c.pdf

² The FY14 School Allocation Memoranda is available at:

http://schools.nyc.gov/offices/d_chanc_oper/budget/dbor/allocationmemo/fy13_14/FY14_PDF/sam21.pdf

The zone for J.H.S. 78 includes addresses also zoned to the following District 22 elementary schools: P.S. 236, P.S. 203, P.S. 312 and P.S. 251. P.S. 236 currently offers a G&T program in grades K-5; in previous years, P.S. 203, P.S. 312, and P.S. 251 each offered a G&T program at one or more grade levels. The DOE evaluates G&T programs annually and recommends discontinuing programs due to performance of school (based on Progress Report and test scores), inadequate demand from G&T qualifiers, space availability and/or culture/environment of program. These changes are recommended while ensuring that current and future G&T students will have access to a new or existing district program. DOE will continue assessing the need for additional G&T programming in District 22 and will make determinations of whether additional seats are needed to accommodate demand.

Comments 19 and 53 relate to the process by which space is allocated to schools and shared space scheduling.

There are currently hundreds of schools in buildings across the city that are co-located; some of these co-locations are multiple DOE schools while others are DOE and public charter schools sharing space. In all cases, the Instructional Footprint is applied to both DOE and public charter schools to ensure equitable allocation of classroom, resource and administrative space.

The Citywide Instructional Footprint (the “Footprint”) is the guide used to allocate space to all schools based on the number of class sections they program and the grade levels of the school. The number of class sections at each school are 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. At the middle school and high school levels, the Footprint assumes every classroom is programmed during every period of the school day except one lunch period. The full text of the Instructional Footprint is available at http://schools.nyc.gov/NR/rdonlyres/78D715EA-EC50-4AD1-82D1-1CAC544F5D30/0/DOEFOOTPRINTSConsolidatedVersion2011_FINAL.pdf.

The amended BUP details the number of class sections each school is expected to program each year through 2017-2018 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 amended BUP demonstrates that there is sufficient space in the building to accommodate the proposed co-location.

Additionally, the BUP sets 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. 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/KeyDocuments/CampusMemo.http://schools.nyc.gov/community/campusgov/KeyDocuments/CampusMemo.htm>

For the purposes of projecting class sections at J.H.S. 78, the DOE assumed 27-30 students per class section, consistent with current programming at the school. SACS plans to enroll 25-30 students per class section. The potentially smaller class size for SACS is consistent with DOE target capacity for elementary grade classes (20 students in grades K-3) vs. middle school classes (27-30 students).

The allocation provided for special needs students is consistent Citywide, and is applied consistently in this proposal. This proposal does not require that any special education students be provided instruction in spaces that are not designed for student use; all renovations are expected to provide appropriate ventilation for the intended use of the space.

Comments 31(a-b) express confusion over apparent inconsistencies in the EIS and BUP regarding Success Academy's enrollment throughout the course of their phase in, and the grades that the charter school will serve, should the proposal be approved.

As described in the amended EIS issued on October 11, 2013, if this proposal is approved, SA- New York 4 will open in September 2014, serving 180-220 students in kindergarten and first grade, and will add one grade level each year until it serves approximately 450-600 students in kindergarten through fourth grade in the 2017-2018 school year. The first page of the original EIS and BUP incorrectly stated that SA- New York 4 would serve 120-180 students in kindergarten and first grade, in September 2014 and approximately 375-450 students in kindergarten through fourth grade in the 2017-2018 school year, although the enrollment charts, building utilization calculations and space allocation charts all contained the correct enrollment information for SA-New York 4.

In addition, the original EIS correctly indicated that while SA-New York 4 has applied for authorization to serve grades kindergarten through five, the proposal only concerns the co-location of grades kindergarten through four in K078.

Comments 6(d), 7(g), 9(b), 10(a), and 56(a) concern the changes in leadership at J.H.S. 78 over the past several years.

The DOE does not comment on personnel decisions. Leadership, while very important, is still only one component of a school, and it is unrelated to decisions about utilizing excess space for additional new school options. Regarding the enrollment reduction at J.H.S. 78, over the past several years, the school culture and conditions have not enabled increased student achievement. The enrollment reduction is intended to provide an opportunity for J.H.S. 78 to concentrate on a smaller cohort of students, and to allow for a new school option to develop in building K078.

Comment 33 expresses concern about SACS' suspension rates.

Charter schools have the autonomy to develop discipline and suspension policies that work best for their student population. Each school's charter authorizer ensures that the policy is consistent with federal law. As such, a given charter school, or network of schools in a charter-management organization such as SACS, may have a higher or lower suspension rates than other schools. As explained in greater detail in EIS and BUP, since each school is provided a contiguous space in building K078, the co-location of SA New York – 4 is not expected to impact the students of J.H.S. 78.

Comment 34 proposes that J.H.S. 78 be converted into a magnet school.

The DOE makes every effort to ensure families have a range of high quality options from which to choose. Any proposal that would impact the admissions method of a given school must take into consideration the needs of the district, borough, and City. At this time, there are no changes to J.H.S. 78's admissions methods being contemplated.

Comments 40 and 43 are not directly related to the proposal and thus does not require a response.

Changes Made to the Proposal

No changes have been made to the proposal.