



Public Comment Analysis

Date: April 25, 2012

Topic: The Proposed Grade Expansion of Harlem Success Academy Charter School 5 (84M482) in Building M123 and the Permanent Co-location of its Kindergarten through Third Grades with P.S. 123 Mahalia Jackson (05M123) in the Building M123 beginning in 2012-2013

Date of Panel Vote: April 26, 2012

Summary of Proposal

The New York City Department of Education (“DOE”) has published an Educational Impact Statement (“EIS”) proposing to (1) expand the grades served by Harlem Success Academy Charter School 5 (84M482, “HSA 5”) in M123 from kindergarten through second grades to kindergarten through third grades and (2) indefinitely extend the co-location of those grades of HSA 5 in the M123 building. HSA 5 is an existing charter elementary school serving kindergarten through second grades in the M123 building, located at 301 West 140th Street, New York, NY 10030, in Community School District 5. HSA 5 is co-located with P.S. 123 Mahalia Jackson (05M123, “P.S. 123”), a zoned school serving students in kindergarten through eighth grades and offers a pre-kindergarten program. 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.

HSA 5 currently admits students through a charter lottery application. P.S. 123’s elementary grades are zoned, and its middle grades admit sixth graders through the District 5 Middle School Choice Process using a limited unscreened process. (Admissions procedures are discussed in more detail in Section III of the Educational Impact Statement.)

The kindergarten and first grades of HSA 5 have been co-located with P.S. 123 since September 2010. On April 28, 2011, the Panel for Educational Policy (“PEP”) approved an amended proposal to extend the co-location of HSA 5 in M123 for the 2011-2012 school year, and expand HSA 5 to serve kindergarten through second grades, as well as a self-contained special education class.

If this proposal is approved, HSA 5 would begin serving third grade in M123 in 2012-2013, and would continue serving kindergarten through third grades, including one self-contained special education class, in the M123 building indefinitely.

According to the 2010-2011 Enrollment, Capacity, Utilization Report (the “Blue Book”), M123 has the capacity to serve 952 students. Currently, the building serves 925 students, yielding a building utilization rate of 97%. If this proposal is approved, HSA 5 will add a third grade in 2012-2013. In 2012-2013, HSA 5 will enroll approximately 68-88 additional students. Including those additional HSA 5 students, M123 is projected to serve approximately 952-1,062 students in total at HSA 5 and P.S. 123 in 2012-2013, yielding an estimated building utilization rate of 100-112%. As discussed in Section III.B of the EIS and in the revised Building Utilization Plan (“BUP”), the building has sufficient space to provide both schools with at least their baseline room allocations despite the projected utilization rate of over 100%. Therefore, the M123 building has the capacity to accommodate all existing schools at their current scales.

Success Academy Charter Schools (“Success Academies”) is a charter management organization (“CMO”) that operates nine public charter schools in New York City. The State University of New York (“SUNY”) Charter Schools Institute has authorized HSA 5 to serve kindergarten through fifth grades. After evaluating the space available in M123, the DOE has concluded that the building can accommodate only the school’s kindergarten through third-grade students. Therefore, the DOE is proposing to expand the co-location of HSA 5 in M123 to include third grade and continue at that grade span in M123 indefinitely. The DOE will consider all long-term options to accommodate the future anticipated growth of HSA 5 to include grades four through eight, and will propose those options in a separate EIS. If this proposal to co-locate the expanded grades served by HSA 5 in M123 to kindergarten through third grades is approved, students in HSA 5’s kindergarten through third grades would be served in M123 indefinitely.

Success Academies schools have a strong track record of academic achievement: each of the four Success Academies elementary schools that received a Progress Report in 2010-2011, including HSA 2 which is also located in District 5, earned an overall score of A and earned A grades in each of the three subsections of the 2010-2011 New York City Department of Education Progress Report—Student Performance, Student Progress, and School Environment. Three of these schools currently serve kindergarten through fourth grades and one serves kindergarten through sixth grades.

In 2010-2011, 75.6% of third grade students at HSA 2 achieved proficiency on the New York State English Language Arts exam and 87.2% achieved proficiency on the mathematics exam. By contrast, the District 5 average third grade English Language Arts proficiency rate in 2010-2011 was 28.6%, and the District 5 average third grade math proficiency rate in 2010-2011 was 34.9%.

This proposed co-location assumes that P.S. 123 will serve its self-contained special education students in fewer sections than it currently programs. Currently, P.S. 123’s self-contained classes are underenrolled, and the school can therefore serve the same number of students consistent with their Individualized Education Programs more efficiently in fewer self-contained sections. This would not assume a decline in P.S. 123’s enrollment.

The DOE believes that Success Academies’ record of success supports the growth of this school. This proposal to expand and extend the co-location of HSA 5 in M123 would allow the school to continue providing high-quality educational opportunities for students and families. Success

Academies strives to provide rigorous and well-rounded instruction in communities throughout New York City.

The details of this proposal have been released in an EIS and revised BUP which can be accessed here: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2011-2012/April2012Proposals>.

Copies of the EIS and revised BUP are also available in main offices of all the schools listed above.

I. Summary of Comments Received at the Joint Public Hearing

A joint public hearing regarding this proposal was held at building M123 on April 17, 2012. Approximately 240 members of the public attended the hearing, and 33 people spoke. Present at the meeting were Community School District 5 Superintendent Gale Reeves; District 5 Family Advocate Denise Gordon; District 5 Community Education Council (“CEC 5”) President Sonja Jones; CEC 5 Representative Maurice Horne; P.S. 123 Principal Beverly Lewis; P.S. 123 School Leadership Team (“SLT”) Representatives Thelma Thompson and Ernestine Augustus; Harlem Success Academy 5 representative Michael Kourabas; and Safiya Raheem, a representative of New York City Councilmember Inez Dickens.

The following comments and remarks were made at the joint public hearing on March 8, 2012:

1. *Sonja Jones, CEC 5 president, asserted that:*
 - a. The poem “I Know Why the Caged Bird Sings” is reflective of the injustice of inequitable distribution of space for district schools. P.S. 123 needs more resources.
 - b. The DOE has a process for its proposals which includes communication and engagement with stakeholders; yet, by the time the proposal comes to the school community, a decision has been made.
 - c. Until a few months ago, it was determined that there was not enough space for HSA 5's growth in M123 and alternate space would need to be found. Somehow, the numbers changed because the DOE came back to the school and proposed the co-location of a third grade class, which required either the elimination of a pre-kindergarten class or the minimizing the space for special needs students at P.S. 123.
 - d. P.S. 123 has had an influx of applications through the middle school choice process this year, but the school could not accept all applicants and have not been given the same opportunity to grow because of this proposal. P.S. 123's middle school should be allowed to expand its enrollment.
 - e. Demographic data in the EIS states that P.S. 123 has a 14% IEP population and 24% ELL population. On the other hand, HSA 5 does not have an IEP population listed in the EIS. HSA 5's ELL population is low as well.
 - f. As a parent, it is incomprehensible that I am here at a hearing on a testing night when I should be home helping my son prepare. This is an example of the community not having a voice.

2. *Maurice Horne, CEC 5 representative, asserted that:*
 - a. As far as CEC is concerned, it has nothing against HSA 5, but the issue is space. When P.S. 123's Progress Report grades started to decline, they started to decline once HSA was co-located in the building. The issue is space, not about who is better. By truncating P.S. 123's space, you are giving some students a better education by stepping on the back of another student. Space can affect performance.
3. *Thelma Thompson, P.S. 123 SLT Representative, asserted that:*
 - a. P.S. 123 has had to sacrifice programming because of the loss of space resulting from the ongoing co-location. Community based organizations were removed due to lack of space, and related services have been placed in storage rooms, the basement, and hallways, though P.S. 123 serves a lot of special education, ELL, and at risk students. P.S. 123 also lost its computer lab, counseling services, robotics room, and Columbia University programs for parents; the school also does not have space for a room for in-school suspensions. P.S. 123 keeps losing so HSA can grow.
 - b. The loss of services and resources experienced by P.S. 123 as a result of the ongoing co-location of HSA schools has negatively impacted students. The negative impact can be seen in the decline of the school's scores from an A to a C in one year.
 - c. When the first HSA school was co-located in M123, the P.S. 123 community was assured the co-location would be only for two years. Then the co-location was expanded and HSA took almost the whole third floor. Then a representative from the DOE's Office of Portfolio Management ("OPM"), held a meeting with P.S. 123's SLT where OPM said HSA would not seek to obtain any more space from P.S. 123. At that time, P.S. 123's SLT requested the return of three classrooms, and the OPM representative indicated that there would be a walkthrough to evaluate their request, though it never happened. Later on, an email was received from the OPM representative apologizing for having said HSA would not seek more space in M123 because the DOE would be publishing the proposal at hand.
 - d. To make space for this proposal, OPM suggested the removal of a pre-kindergarten class from P.S. 123, reduction in fifth grade enrollment, and reduction of out-of-zone enrollment. Then, another meeting was held on February 29, 2012, where the P.S. 123 SLT shared its concerns, and OPM responded that HSA 5 would not be moved from M123, in order for the school to maintain consistency for its third grade. Since removing the pre-kindergarten and reducing enrollment was not a viable option in the SLT's opinion, the SLT presented another option, suggesting the school's self-contained classes would be consolidated.
 - e. This proposal will impact PS. 123's ability to serve students. For example, the students in the middle school grades feel constricted. There are approximately 200 middle school students in a small space on the third floor.
 - f. Over 300 students applied to attend middle school at P.S. 123, but only 21 were accepted.
 - g. Space has been re-allocated for each of the last four years, and teachers have had to move every year, which is disruptive and impacts achievement and morale. A

- f. Success Academies should get their own private building now by buying a building or paying for rent.

Oral comments made at the joint public hearing

6. Multiple commenters expressed support for the proposal based on HSA 5's record of positive performance and parent involvement, which they believe is stronger than the record of district schools.
7. A commenter expressed support for the proposal, asserting that HSA 5 does serve ELL students, which is counter to the assertion that they do not.
8. Multiple commenters expressed support for the proposal, asserting that HSA 5 is a public school that also needs and deserves space.
9. A commenter asserted that HSA 5 should be allowed to expand because families of HSA 5 students are just as much part of the surrounding community as P.S. 123 families.
10. Multiple commenters asserted that everyone needs to make sacrifices for the sake of opportunity, and everyone should thus support the proposal.
11. Multiple commenters asserted that the proposal results in an unfair distribution of space, in which P.S. 123 students do not have access to enough space needed for a proper education.
12. Multiple commenters asserted that HSA 5 should move into its own building.
13. A commenter asserted that elementary students should not be co-located with middle school students.
14. A commenter asserted that HSA and the DOE had previously asked for only a limited amount of time in the building, and P.S. 123 should receive its space back. Middle school students in P.S. 123 currently cannot use their science lab because of HSA 5.
15. A commenter asserted that P.S. 123's Progress Report score has fallen due to the co-location of HSA.
16. Multiple commenters asserted that HSA 5 has caused a loss of resources at P.S. 123 that they need back. In one case, a parent had to pull a child out of P.S. 123 because they were not able to meet the student's needs as a result of a lack of space.

II. Summary of Issues Raised in Written and Oral Comments Submitted to the DOE regarding the proposal

The DOE received a letter in opposition to this proposal and other Success Academy Network proposals from New York City Council Assistant Deputy Majority Leader Inez Dickens, which was signed by several other New York City Councilmembers, including: Deputy Majority Leader Leroy Comrie, Majority Whip Albert Vann, Councilmember Robert Jackson, Councilmember Gale Brewer, Councilmember Rosie Mendez, and Councilmember Daniel Dromm. The letter asserted that:

17. Success Academy charter co-locations present particular concerns, as they are detrimental to the operation of traditional public schools, impeding their ability to provide quality programs, render core curriculum studies, extracurricular studies, and have resulted in gross overcrowding. It is a separate and not equal climate.

18. The councilmembers express unified opposition to the proposal. Overcrowding public schools will not lead to “success” for any child in these overburdened learning environments.
19. The M123 proposal seeks to force additional students into a building that is already at capacity. According to the EIS, further expansion of HSA 5 would overcrowd an already densely populated space, resulting 112% building utilization. Such conditions would threaten special education services, and the safety and learning environment of all children in the building will be jeopardized.
20. Though the councilmembers are not inherently opposed to charter schools, proposals like this one cause divides and unequal treatment of young people.

Part of a “petition,” which did not note how many people had signed on, was submitted to the DOE. The petition made the following points:

21. The P.S. 123 community would like the April 17, 2012 joint public hearing to be rescheduled because it was scheduled to take place during the same week as state testing. Holding a hearing during the week of state testing would make it very difficult to have the maximum amount of people at the hearing, if people want to go home to prepare for the second day of testing.

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

Equitable Access to Resources

- Comments 1a, 3a, 3g, 5c, 11, 16, 17 and 20 assert the proposal results in an inequitable distribution of namely space.

The proposal applies the same standards for all elements of this proposal to HSA 5 as it does to the existing schools in P.S. 123 and as it does in all proposals. The application of the Footprint to the schools impacted by the proposal was applied the same way it is to all schools in the City impacted by proposals for significant changes to utilization. These standardized methods account for the specific features of each school’s enrollment and ensure equitability for schools impacted by proposals like this one.

If this proposal is approved, as noted in the revised BUP, P.S. 123 would continue to receive space for student support services, resource rooms, and administrative space. For more information, please consult the revised BUP. As a result, the DOE does not believe this proposal results in the inequitable distribution of resources.

Community Engagement

- Comments 1b and 3h assert the proposal does not take into account input from the school community and a decision has already been made.

The DOE has held non-mandatory engagement meetings with the SLT of P.S. 123 in order to gather feedback from community stakeholders and provide an opportunity for

input on the proposal. In fact, the consolidation of self-contained classes was suggested by the P.S. 123 SLT, and as such, was incorporated into this proposal. The DOE considers all public feedback when making its proposals and makes the feedback available, in the form of this public comment analyses, to the Panel for Educational Policy (“PEP”) for their consideration. No decision is made on whether a proposal will be implemented until the PEP has voted on it.

Availability of Space in M123

- Comments 1c, 3c-d, 4a, and 14 assert there is no space in M123 for this proposal, and that the DOE had until recently seemed to be in agreement with that assessment. They also assert that the changes in P.S. 123’s programming that make the space available represent a negative impact on P.S. 123.

The DOE evaluates space needs and availability on an ongoing basis. As described in the EIS and revised BUP, the DOE ultimately concluded that there is currently space to expand HSA 5 to serve third grade and permanently co-locate HSA 5 in the building. The amended EIS and revised BUP for this proposal demonstrate that there is space to accommodate the proposal, as P.S. 123 is provided its full adjusted footprint in the revised BUP.

Moreover, as stated in the amended EIS, this proposed co-location assumes that P.S. 123 will serve its self-contained special education students in fewer sections than it currently programs. Currently, P.S. 123’s self-contained classes are underenrolled, and the school can therefore serve the same number of students consistent with their Individualized Education Programs more efficiently in fewer self-contained sections. Although P.S. 123 plans to consolidate some of its existing self-contained sections, special education students currently in self-contained classes would continue to be served in an environment consistent with their IEPs.

Demand/Enrollment Growth at P.S. 123

- Comments 1d and 3f assert that demand for middle school seats at P.S. 123 is not being met because there is not enough space for P.S. 123 to accept all students who apply to the program.

Through the middle school choice process, students may choose their school by ranking their school choices in an application. Not all students who apply to a school have necessarily ranked that school as their top choice, and students are matched to their highest ranked choice.

Although P.S. 123 may have had over 300 applicants to its middle school program, not all of those students ranked P.S. 123 as their top choice, and many of those students ranked other schools over P.S. 123. The enrollment level of P.S. 123’s middle school grades has not been inhibited by a lack of space; rather, the school’s enrollment has been driven by the number of students it is matched with as a result of their rankings.

This proposal is not expected to impact current or future student enrollment at P.S. 123.

HSA 5 Demographics

- Comments 1e and 5e assert that the EIS is not clear about the demographic makeup of HSA 5.

In response to these comments, the DOE amended the EIS for this proposal on April 20, 2012, to correct a typographical error on page 11 of the original EIS that mislabeled HSA 5's percentage of students with individualized education programs ("IEPs") as the percentage of English language learner ("ELL") students.

The amended EIS correctly notes that about 10% of HSA 5 students are ELL students and that 15% of HSA 5's students have IEPs, which is similar to the percentage of students with IEPs at P.S. 123.

Hearing Date

- Comments 1f, 4b, and 21 assert the hearing should have been held on a different night due to state testing, and the hearing took place on that particular date because the DOE has not allowed the community to have a voice in decision making.

The hearing was scheduled in accordance with state law and Chancellor's Regulation A-190, which requires that a joint public hearing be held no sooner than 30 days, but not later than 45 days, after the filing of the original EIS. Furthermore, the dates were selected with input from the impacted parties, including the P.S. 123 SLT, to accommodate the school's schedule.

In fact, the EIS for this proposal was originally intended to be posted earlier, which would have resulted in an earlier hearing window that would not have coincided with the state testing. However, at the request of the P.S. 123 SLT, the posting was delayed so that the hearing could be held after the spring recess. April 17, 2012 was one of the specific dates requested by the SLT, and was agreed to by all mandated parties.

P.S. 123 Performance

- Comments 2a, 3b, 3g, and 15 assert P.S. 123's co-location with HSA 5 has had a negative impact on P.S. 123's performance.

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.

Again, the DOE has applied these same standards to the co-location of P.S. 123 and HSA 5, meaning P.S. 123 is subject to the same conditions as hundreds of other co-located schools throughout the City, including HSA 5. The DOE does not believe that P.S. 123's performance need be negatively impacted by the co-location.

Overcrowding

- Comments 3e, 5c, 18, and 19 assert that M123 will be overcrowded as a result of the proposal.

As explained above, the DOE applies the Footprint to all co-located schools to ensure that the schools are allocated sufficient space to accommodate all their students. With regard to this proposal, the DOE has posted a revised BUP, which details the number of class sections each school is expected to program each year and allocates the number of classrooms accordingly. The revised BUP demonstrates that there is sufficient space in the building to accommodate the proposed co-location.

With regard to the projected utilization of M123 as a result of this proposal, 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.

Long-term Impact on P.S. 123

- Comments 5a-b assert that the proposal will eventually result in the truncation and possible closure of P.S. 123, as evidenced by the history of Success Academies co-locations.

As stated above and in the EIS, this proposal will not negatively impact programming at P.S. 123. Thus, it is incorrect to state that this proposal will result in the truncation of P.S. 123. Additionally, there is no evidence to support the assertion that the goal of Success Academies co-locations is to ultimately close the co-located schools and take over the entire building. No Success Academy school has exclusive possession of any DOE building.

De-zoning of Students who Live in Temporary Housing

- Comment 5d asserts that HSA has asked for P.S. 123's 100 children living in temporary housing be de-zoned so HSA can have more classroom space.

No zoning change has taken or is planned to take place to eliminate P.S. 123's enrollment of children living in temporary housing. Moreover, changes to zoning require approval by the CEC.

Charters in Public Space

- Comments 5f and 12 assert HSA 5 should move into its own private space.

Unlike traditional public schools, charter schools do not receive supplemental funding for use in building or acquiring instructional space. The DOE seeks to provide space to high quality education options for all students, regardless of whether they are served in DOE or public charter schools. We welcome public charter schools to lease or provide their own space, but will offer space in DOE schools where it is feasible to do so.

Elementary Co-location with Middle Schools

- Comment 13 asserts that elementary students should not be co-located with middle school students.

The DOE currently manages many campuses where elementary schools are co-located with middle schools. It is quite common for buildings to serve students in kindergarten through eighth grade, as there are numerous schools throughout the City that serve kindergarten through eighth grade, including P.S. 123. Nonetheless, the DOE, in consultation with the Building Council, will, where possible, allocate contiguous and dedicated space to the elementary students to ensure the safety of all students.

Use of Science Lab

- Comment 14 asserts that the co-location causes P.S. 123 to be unable to use the science lab.

Construction has recently been completed to upgrade science facilities in M123 for use by middle school students at P.S. 123. P.S. 123 students now have access to these rooms.

Support for the Proposal

- Comments 6-10 express support for the proposal.

No response is required.

V. Changes Made to the Proposal

In response to public feedback, the DOE amended the EIS for this proposal on April 20, 2012, to correct a typographical error on page 11 of the original EIS that mislabeled HSA 5's percentage of students with IEPs as the percentage of ELL students. the amended EIS did not significantly revise the proposal itself.