

## **Public Comment Analysis**

Date: December 19, 2012

Topic: The Proposed Co-Location of a New Public Charter School, Success Academy Charter School – Bronx 3 (84XTBD) with Existing School P.S. 146 Edward Collins (08X146) in Building X146 Beginning in 2013-2014

Date of Panel Vote: December 20, 2012

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### **Summary of Proposal**

In an Educational Impact Statement (“EIS”) and Building Utilization Plan (“BUP”) posted on September 20, 2012, the New York City Department of Education (“DOE”) proposed to co-locate kindergarten through second grades of a new public charter school, Success Academy Charter School – Bronx 3 (84XTBD, “SA-Bronx 3”), in building X146 (“X146”), located at 968 Cauldwell Avenue, Bronx, NY 10456, in Community School District 8, beginning in 2013-2014. SA-Bronx 3 would be co-located with P.S. 146 Edward Collins (08X146, “P.S. 146”), a zoned elementary school serving kindergarten through fifth grades and offering a pre-kindergarten program. That proposal was scheduled to be considered by the Panel for Educational Policy (“PEP”) on November 8, 2012, but was rescheduled in the wake of disruptions caused by Hurricane Sandy. On November 5, 2012, the DOE reissued the proposal.

SA-Bronx 3<sup>1</sup> is a new public charter school that will serve grades kindergarten through fifth. However, this proposal only involves the co-location of SA-Bronx 3’s kindergarten through second grades. Success Academy Charter Schools (“SACS”) is a charter management organization (“CMO”) that currently operates 12 public elementary charter schools in New York City. SACS has been authorized by SUNY to operate six new public elementary schools starting in 2013-2014. The four SACS elementary schools that received a Progress Report for the 2010-2011 school year all received an overall grade of A.

If this proposal is approved, SA-Bronx 3 will begin serving a total of 140-180 kindergarten and first grade students in 2013-2014 in building X146. In 2014-2015, SA-Bronx 3 would add second grade, and serve 195-250 students in kindergarten through second grade. In 2015-2016 and beyond, SA-Bronx 3 is projected to serve approximately 210-270 kindergarten through second grade students in X146. The DOE will consider all long-term options to accommodate the future siting of grades three through five; any such proposals will be the subject of separate EISs and BUPs. The school would admit students via its charter lottery application process, with preference given to District 8 residents, and a set aside, described in more detail below, for English Language Learners.

According to the 2010-2011 Enrollment Capacity Utilization Report (the “Blue Book”), X146 has the capacity to serve 630 students. If this proposal is approved, the building would serve approximately 676-

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<sup>1</sup> Success Academy Charter School (“SACS”) initially applied, and was approved by the State University of New York Charter Schools Institute (“SUNY”), to open Success Academy Charter School – Manhattan 3, which was to be sited in the borough of Manhattan. However, SACS has applied to revise the charter so that the school may serve students in the Bronx as “Success Academy Charter School – Bronx 3,” and the school is referred throughout the EIS, BUP and this Analysis of Public Comments as such.

796 students and have a utilization rate of 107-126% in 2015-2016 when SA-Bronx 3 has phased in its second grade and reached its long-term projected enrollment for those grades. As discussed in Section III.B of the EIS and in the BUP, while the anticipated utilization rate is in excess of 100%, both schools will receive space that meets their instructional needs, and the building has space to accommodate P.S. 146 and kindergarten through second grades of SA-Bronx 3.

In the 2010-2011 and 2011-2012 school years, grades kindergarten through second of Success Academy Charter School – Bronx 2 (“SA-Bronx 2”) were co-located with P.S. 146 in the X146 building.<sup>2</sup> Therefore, the DOE anticipates that this site will be a good fit for SA-Bronx 3, as the P.S. 146 community is accustomed to being co-located with SACS schools. In sum, the DOE supports the permanent placement of grades kindergarten through second of SA-Bronx 3 in building X146 in order to continue providing new educational opportunities for students and families.

### **Summary of Comments Received at the Joint Public Hearing**

A joint public hearing regarding this proposal was held at P.S. 146 Edward Collins School, located at 968 Cauldwell Avenue on December 17, 2012. Approximately 37 members of the public attended the hearing and 9 people spoke. Present at the meeting were District 8 Superintendent Timothy Behr; District 8 Community Education Council (“CEC 8”) member Otis S. Thomas; Principal Janet-Ann Sanderson from P.S. 146; P.S. 146 School Leadership Team (“SLT”) representatives Chantel Repps-Heaney, Karen Miller, Lianne Schatz, and Raizza Almeyda; two representatives from SACS; Liz Genco, a representative from The State University of New York (SUNY); and Jean-Pierre Jacquet, Ashley Davies and Andrea McLean from the DOE’s Office of Portfolio Management.

The following comments and remarks were made at the joint public hearing on December 17, 2012 on the proposal:

1. Principal Janet-Ann Sanderson voiced the following concerns:
  - a. During the previous co-location with SA-Bronx 2, P.S. 146 and its students were marginalized and had to give up elective programming such as art. The current proposed co-location will make it difficult to honor state mandated pull out services for students with Individual Educational Programs (“IEPs”).
  - b. The proposed co-location would be helping the charter students while harming P.S. 146 students, and would be infringing on the ability of P.S. 146 student to learn and be successful.
  - c. In the previous six years when there were several organizations in the building students did not have the space to move freely.
2. Raizza Almeyda, P.S. 146 SLT representative, asserted that:
  - a. In the previous six years, P.S. 146 has been co-located with several different organizations including one high school and three charter schools. This is the first year that P.S. 146 has had the building to themselves and it should stay that way. P.S. 146 is a family and doesn’t want a charter school in the building.

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<sup>2</sup> As of September 2012, SA-Bronx 2 is co-located in the X055 building. The DOE proposed this resiting and co-location in order to provide a long-term site for the growth of SA-Bronx 2. The Educational Impact Statement for that proposal is available at: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2011-2012/Mar12012Proposals.htm>

- b. If a charter school is co-located in building X146 the teachers would not have a teachers' lounge.
  - c. She has collected 500 signatures for a petition in support of allowing P.S. 146 to remain without a co-located school so that its kids can have fun and learn in their own space.
  - d. She learned about this proposal and previous co-locations on the Internet.
  - e. She felt that this proposed co-location is an attempt to phase out P.S. 146.
  - f. The proposed co-location will hinder P.S. 146's ability to provide after-school programs. During previous co-locations, P.S. 146 had wanted to teach tennis in the gym, but was unable to do so because a charter school was having a program or had not yet dismissed its students.
3. Several commenters stated that they did not oppose charter schools, but they are against doing what is best for SACS' students at the expense of district students. They oppose having a charter school in the X146 building.
  4. Several commenters raised concerns about the lack of space in the X146 building.
  5. Several commenters expressed their support for the principal and staff at P.S. 146.
  6. Several commenters asserted that it is unfair to make P.S. 146 share its building.
  7. Several commenters stated that the proposed co-location would prevent P.S. 146 from accessing a separate bathroom on the 3<sup>rd</sup> floor for its 4<sup>th</sup> and 5<sup>th</sup> grade students.
  8. Several commenters stated that the charter school had the opportunity to go to Manhattan and should not be allowed to serve elementary students in the P.S. 146 building because it is not yet authorized to do so.
  9. Several commenters stated that the charter schools should not take space away from public school children.
  10. Several commenters stated that the formula and Footprint used to allocate space was not being applied by people who work or have taught in schools.
  11. Several commenters suggested that the charter school should look to take over space from the archdiocese.
  12. One commenter shared concerns that SACS has its own agenda and is looking to expand and push out public schools.
  13. Several commenters stated that charter schools "cherry-pick" the students they want to enroll, and remove students who cannot handle the work and this increases the burden on district schools.
  14. Several commenters said that charter schools should have to pay rent for their space.
  15. Several commenters felt that P.S. 146 will not be allocated an equitable amount of space under the proposal.

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

No written and/or oral comments on this proposal were submitted to the DOE.

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

Comments 1c, 2a, 2c, 3, 6 and 9 generally oppose the co-location of a charter school in X146.

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 new charter schools with district schools is necessary to ensure that students and families in every community have access to 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 shall 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 1a, 1b, and 2f assert that the proposed co-location will negatively impact P.S. 146's programming, provision of special education services and after school activities.

As stated in the EIS, the proposed co-location is not expected to impact P.S. 146's future student enrollment, instructional programming, or admissions process. In particular, all students enrolled at P.S. 146 will continue to receive any mandated special education and/or ELL services as needed.

With respect to P.S. 146's ability to offer after school programming, as discussed in the BUP, the Building Council, comprised of principals or school leaders from each co-located school, will work together to develop a mutually agreed upon schedule for shared spaces, such as the gym, for activities during and after the school day. As indicated in the BUP, if disputes should arise, school leaders are encouraged to engage in the dispute resolution measures set forth in the Campus Policy memo available at: <http://schools.nyc.gov/community/campusgov/KeyDocuments/CampusMemo.htm>.

As to P.S. 146's use of the gym for after school programming, the shared space schedule in the BUP reflects that the gym is not currently scheduled for use by either school after 3 p.m. Therefore, it does not appear that the proposed co-location would prevent P.S. 146 from using the gym after the conclusion of its regular school day.

Comments 2b, 4, and 7 concern the sufficiency of space in X146 and the potential loss of certain spaces currently utilized by P.S. 146.

As described in the EIS and BUP, there is sufficient space to accommodate P.S. 146 and SA-Bronx 3's kindergarten through second grades in X146. While the anticipated building utilization rate will be in excess of 100% once SA-Bronx 3 serves its full projected enrollment for grades kindergarten through 2, both schools will receive space that meets their instructional needs. In fact, P.S. 146 will continue to receive rooms in excess of its adjusted baseline Footprint allocation. 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, as described above. In addition, charter school enrollment plans frequently contemplate larger class sizes than target capacity, as well as school models that permit greater space efficiency, contributing to building utilizations above 100%.

If this proposal is approved the assignment of specific rooms and location of each school in the building will be made in consultation with the principals of each school and the Office of Space Planning. With respect to the Teachers' Lounge, as described in the BUP, P.S. 146 will continue to receive its full allocation of administrative space in each year of the proposed co-location. It is within the discretion of

the principal to determine how to use the administrative space allocated to P.S. 146. Thus teachers at P.S. 146 may continue to have a Teachers' Lounge if it is deemed appropriate by the principal.

With respect to P.S. 146's access to specific restrooms, it should be noted that in many buildings housing co-located schools, each school is assigned bathrooms on the floors or hallways of their classrooms and specific stairways for students to use. These measures are taken to cultivate cohesive cultures within each school. Separation between schools is intended to limit any issues that might arise from groups of students who may not know each other well and to nurture school unity. The intention is not to be punitive to any one group of students. If the assignment of specific bathrooms is not working or is inadequate, the Building Council can discuss an alternative arrangement.

Comments 10 and 15 relate to the process by which space is allocated to co-located schools.

As described in the BUP, the DOE has applied the DOE Instructional Footprint ("Footprint") to P.S. 146 and SA-Bronx 3 to allocate rooms in an unbiased manner, and has divided the remaining space equitably based on the proportion of the total students in the building enrolled by each school and/or program, the instructional and programmatic needs of the co-located schools, and the physical location of the excess space within the building. 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. Key stakeholders throughout the Department of Education including the School Construction Authority, the Division of Portfolio Planning, Office of Space Planning, the Division of Accountability, Performance & Support, along with the Division of Special Education and school Principals were involved in developing these parameters.

The full text of the Footprint is available at

[http://schools.nyc.gov/NR/rdonlyres/78D715EA-EC50-4AD1-82D1-1CAC544F5D30/0/DOEFOOTPRINTSConsolidatedVersion2011\\_FINAL.pdf](http://schools.nyc.gov/NR/rdonlyres/78D715EA-EC50-4AD1-82D1-1CAC544F5D30/0/DOEFOOTPRINTSConsolidatedVersion2011_FINAL.pdf).

Comment 2d concerns the process by which the community was informed of this proposal.

The DOE began discussions regarding this proposal with Principal Sanderson and the school's Children's First Network and cluster in advance of posting the EIS and BUP. When the EIS and BUP were issued, they were made available to staff, faculty, and parents at P.S. 146 on the DOE Website and in the P.S. 146 main office. The DOE also provided a letter describing the proposal and notice of joint public hearing to P.S. 146 to send home with all students. As described above, more than 37 members of the public collectively attended the joint public hearing concerning the proposal, and the DOE provided a dedicated email address and phone number to receive additional comment. This Analysis of Public Comments will be provided to the PEP prior to its determination regarding this proposal.

Comments 2e and 12 suggest that this co-location proposal is a precursor to the phase-out of P.S. 146.

Schools are identified for possible phase-out for any of the following three reasons: (1) they received poor grades on their annual Progress Report; (2) they received a poor score on their most recent Quality Review; or (3) they have been identified by the New York State Education Department ("SED") as a Priority School, defined by SED as one of the bottom 5% of schools in the state. Specifically, under the DOE's accountability framework, all schools that receive a grade of D, F, or a third consecutive C grade or lower on their annual Progress Report and all schools that receive a rating of Underdeveloped on the Quality Review are evaluated for intensive support or intervention, including the possibility of phase-out. Progress Reports are released by the DOE each fall and evaluate schools on a scale of A through F based on Student Progress, Student Performance, School Environment, and, new to the Progress Report in

2011-2012, College and Career Readiness. During Quality Reviews, experienced educators visit a school over several days, observing classrooms and talking with students, staff, and families. Schools are rated on the following four-point scale: “Underdeveloped” (the lowest possible rating), “Developing,” “Proficient,” and “Well Developed” (the highest possible rating).

P.S. 146 earned a C on its 2011-2012 Progress Report and a B on its 2010-2011 Progress Report. P.S. 146 does not meet the above criteria for phase-out and the DOE has not identified P.S. 146 as a candidate for phase-out. There is no connection between a co-location proposal and the DOE’s decision to pursue the phase out of a school.

Comment 5 expresses support for the principal and staff of P.S. 146 and does not require a response.

Comment 8 expressed concern about the fact that SACS has not yet received approval from SUNY to site SA-Bronx 3’s in the Bronx.

SACS initially applied, and was approved by SUNY to open Success Academy Charter School – Manhattan 3, which was to be sited in the borough of Manhattan. However, SACS has applied to revise the charter so that the school may serve students in the Bronx as SA-Bronx 3. SUNY is currently reviewing the application and has the authority to approve or deny the revision. If the revision is not approved, the DOE will reconsider this proposal and may propose an alternative site for the school, which would be the subject of another EIS.

Comments 11 and 14 suggest that SACS should seek non-DOE space or pay rent for DOE space. Please refer to the response to comments 1c, 2a, 2c, 3, 6 and 9 above. 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. The DOE does not charge public charter schools to educate public school students much in the same way that it does not charge district schools to educate students. The DOE does not lease space directly for charter schools; a charter interested in private parochial spaces would have to acquire or lease that space with own funds.

Comment 13 contends that SACS “cherry-picks” its student body, which leaves district schools with students who are more difficult to serve.

Under the Charter Schools Act, charter schools are prohibited from restricting admission based on, among other things, intellectual ability, measures of aptitude (like test scores) or disability. If public charter schools, like SA-Bronx 3, receive more applicants than available seats, they must run a lottery to admit students. Lotteries select students randomly from among the applicant pool. In contrast, district public schools may exercise screened or limited unscreened or zoned admissions methods, which limit the eligibility of students to enroll. For example, screened schools are able to select their students based on 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.

Furthermore, charter schools serve the communities in which they are located. Charter school lotteries give preference to students who live in the community school district in which the charter school is located. 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. Charter schools which fail to meet the special education and or ELL targets set by their authorizer having their renewal applications rejected.

If this co-location proposal is approved, elementary school age students in District 8 will have the opportunity to enter the charter application lottery process to enroll in SA-Bronx 3 beginning in April 2013. The SA-Bronx 3 charter provides the following lottery preferences:

- Siblings of currently attending or accepted students;
- English Language Learner (“ELL”) students; and
- Applicants who reside within the Community School District (“CSD”)

SA-Bronx 3 will set aside a certain percentage of seats for ELL students that is relatable to the average ELL percentage at traditional public elementary schools within the City and/or District 8. With respect to the remaining seats and the waitlist, SA-Bronx 3 will provide a lottery preference to applicants who reside within the CSD.

### **Changes Made to the Proposal**

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