

## **Public Comment Analysis**

**Date:** December 19, 2012

**Topic:** The Proposed Co-location of a New Public Charter School, Success Academy Charter School – Manhattan 1 (84MTBD) with Existing Schools Gramercy Arts High School (02M374), High School for Language and Diplomacy (02M399), International High School at Union Square (02M438), Academy for Software Engineering (02M546), Union Square Academy for Health Sciences (02M533), and Washington Irving High School (02M460) in Building M460 in the 2013-2014 School Year

**Date of Panel Vote:** December 20, 2012

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### **Summary of Proposal**

On September 21, 2012, the New York City Department of Education (“DOE”) issued an Educational Impact Statement (“EIS”) and Building Utilization Plan (“BUP”) proposing to site the kindergarten through fifth grades of Success Academy Charter School – Manhattan 1 (84MTBD, “SA - Manhattan 1”) in building M460 (“M460”), located at 40 Irving Place, New York, NY 10003 in Community School District 2. If this proposal is approved, SA - Manhattan 1 would open in September 2013, serving 164-210 students in kindergarten and first grade, and would add one grade each year until it reaches full scale in M460 in 2017-2018. At that time, SA - Manhattan 1 would serve approximately 470-602 students in kindergarten through fifth grade.

SA - Manhattan 1 would be co-located indefinitely in M460 with Gramercy Arts High School (02M374, “Gramercy Arts”), an existing high school that serves students in grades nine through twelve; Washington Irving High School (02M460, “Washington Irving”), an existing high school that currently serves students in grades ten through twelve and is in the process of phasing out;<sup>1</sup> High School for Language and Diplomacy (02M399, “Language and Diplomacy”), an existing high school that currently serves students in grades nine through twelve; International High School at Union Square (02M438, “International”), an existing high school that currently serves students in grades nine through eleven; Academy for Software Engineering (02M546, “AFSE”), an existing high school that currently serves students in grade nine; and Union Square Academy for Health Sciences (02M533, “USA”), an existing high school that currently serves students in grade nine. International, AFSE and USA are each currently phasing in and will gradually grow to full scale as they add a new grade of students annually. Gramercy Arts, Language and Diplomacy, International, AFSE, and USA admit students through the Citywide High School Admissions Process, and AFSE and USA offer Career and Technical Education (“CTE”) programs. Each of the schools phasing in will serve students in grades nine through twelve at full scale. A “co-location” means that two or more school organizations are located in the same

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<sup>1</sup> Washington Irving is no longer admitting new students. However, as a result of ninth grade hold-over students, Washington Irving is projected to serve 51 ninth grade students in 2012-2013 according to 2012-2013 Budget Register Projections.

building and may share common spaces like auditoriums, gymnasiums, and cafeterias. In addition, M460 houses a Young Adult Borough Center (“YABC”), and three Community Based Organizations (“CBOs”), Sleepy Hollow Preschool, Success Mentor,<sup>2</sup> and FECS Health and Human Services. This proposal is not expected to impact the continued siting of the CBOs or the YABC.<sup>3</sup>

On October 18, 2012, the BUP was amended to clarify SA – Manhattan 1’s use of a multi-purpose room and the effect of that use on the proposed shared space plan and to address minor calculation errors that did not impact the allocation of space. On October 19, 2012, the BUP was further amended to correct capacity figures for gymnasiums in the building. The EIS was amended to update references to the second amended BUP. These amendments did not significantly revise the proposal.

The phase-out of Washington Irving was approved by the Panel for Educational Policy (“PEP”) on February 9, 2012. Washington Irving currently serves 631 students in grades ten through twelve.<sup>4</sup> It no longer admits new ninth grade students and will close in June 2015.

SA - Manhattan 1 is a new public charter school that is authorized by its charter authorizer, the State University of New York Charter Schools Institute (“SUNY”), to serve grades K-5. 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 charter schools starting in 2013-2014, including SA - Manhattan 1. The four SACS elementary schools that received a progress report for the 2010-2011 school year each received an overall grade of A.

If this proposal is approved, SA - Manhattan 1 would open in September 2013 and would serve 164-210 students in kindergarten and first grade, and would add one grade each year until it reaches full scale in M460 in 2017-2018. At that time, SA - Manhattan 1 would serve approximately 470-602 students in kindergarten through fifth grade. The school would admit students via the charter lottery application process, with preference given to District 2 residents, and a set aside for English Language Learners.

According to the 2010-2011 Enrollment Capacity Utilization Report (the “Blue Book”), M460 has the capacity to serve 2,847 students. During the 2011-2012 school year, the building served 1,861 students,<sup>5</sup> yielding a building utilization rate of 65%.<sup>6</sup> During the 2012-2013 school year,

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<sup>2</sup> Success Mentor is not affiliated with Success Academy Charter Schools.

<sup>3</sup> Young Adult Borough Centers (“YABCs”) are evening academic programs designed to meet the needs of high school students who might be considering dropping out because they are behind or because they have adult responsibilities that make attending school in the daytime difficult. Students graduate with a diploma from their home school after they have earned all of their credits and passed all of the required exams while attending the YABC.

<sup>4</sup> 2012-2013 Budget Register Projections

<sup>5</sup> 2011-2012 Audited Register. This figure represents enrollment at Gramercy Arts, Language and Diplomacy, International, and Washington Irving.

<sup>6</sup> All references to building utilization rates in this document are based on target capacity data from the 2010-2011 Blue Book. Utilization rates referenced for the 2011-2012 school year are based on the 2011 Audited Register and do not include Long Term Absences (“LTAs”), students who have been absent continuously for 30 days or more as of October 31, 2011. This

M460 is projected to serve 1,906 students,<sup>7</sup> yielding a building utilization rate of 67%. If this proposal is approved, the building would serve approximately 2,620 – 2,952 students and would have a utilization rate of 92% – 104% in 2017-2018, when Washington Irving has fully phased out and all remaining schools, including SA - Manhattan 1, have reached full scale in this building. While the anticipated utilization rate is in excess of 100%, as detailed in the BUP, all schools will receive space that meets each of their instructional needs, and the building has the space to accommodate Gramercy Arts, Language and Diplomacy, International, AFSE, Washington Irving, and USA in addition to SA - Manhattan 1.

As mentioned above, SACS currently operates 12 public elementary charter schools in New York City. The DOE supports opening an additional SACS public charter school in District 2 as a way to increase access to high-quality public schools for District 2 families and to provide an additional elementary school option. Families residing in District 2 would be given preference for admission to SA - Manhattan 1. SACS schools have a strong track record of academic achievement: each of the four SACS elementary schools that received a Progress Report in 2010-2011 earned an overall grade of A and earned A grades in each of the three subsections: Student Performance, Student Progress, and School Environment.

The details of this proposal have been released in an Educational Impact Statement which can be accessed here along with the Building Utilization Plan (“BUP”):

<http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2012-2013/Dec2012Proposals.htm>

Copies of the EIS and BUP are also available in the main offices of Gramercy Arts, Language and Diplomacy, International, AFSE, Washington Irving, and USA.

### **Summary of Comments Received**

A joint public hearing regarding this proposal was held at building M460 on December 10, 2012. At that hearing, interested parties had an opportunity to provide input on the proposal. Approximately 129 members of the public attended the hearing, and 35 people spoke. Present at the meeting were the DOE’s Senior Superintendent Elaine Gorman; Manhattan District 2 High Schools Superintendent Marisol Bradbury; District 2 Community Education Council President Shino Tanikawa; District 2 Community Education Council Member Tamara Rowe; Principal Sarah Hernandez of Washington Irving; Principal Bernardo Ascona of USA; Principal Seung Yu of AFSE; Principal Santiago Mayol of Language and Diplomacy; Principal Denise DiCarlo of Gramercy Arts; Thomas Hasler, representing the School Leadership Team of International High School at Union Square; Marian Burnbaum, a representative of the Washington Irving School Leadership Team; Marie Rochford, head of the Parent-Teacher Association from Washington Irving High School; Council Member Rosie Mendez; Maureen Murphy, representative for the

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methodology is consistent with the manner in which the DOE conducts planning and calculates space allocations and funding for all schools. In determining the space allocation for co-located schools, the Office of Space Planning will conduct a detailed site survey and space analysis of the building to assess the amount of space available in the building.

<sup>7</sup> 2012-2013 Budget Register Projections. Current register figures before the October 31<sup>st</sup> Audited Register fluctuate and are not used.

State University of New York; Drew Patterson and Jennifer Peng from the Division of Portfolio Planning.

Below is a summary of the comments received:

## **I. Comments**

The following comments and remarks were made at the joint public hearing on December 10, 2012.

1. Enrique Lopez, representative for State Senator Tom Duane, read a statement asserting that:
  - a. Space at Irving should be used for growth or expansion of current high schools.
  - b. There would be an inappropriate mix of elementary and high school students in the building that is an unnecessary risk.
  - c. Charter schools compete against district schools for access to facilities and resources.
  - d. The proposed co-location would result in strife and disrupt the harmony that has been created.
  - e. This proposal would require further retrofitting and would be a waste of dollars to reconfigure historic spaces for younger students.
  - f. Success will grow and the relocation of Innovation Diploma Plus was to move students out so the charter could move in.
  
2. Councilwoman Rosie Mendez expressed the following:
  - a. She was informed by the DOE a year ago that the space would not be allocated to a charter school.
  - b. Elementary students are inappropriate for this building.
  - c. The metal detectors at Norman Thomas were deemed inappropriate for an elementary co-location, how could they be appropriate at Irving?
  - d. Bathrooms are not appropriate, so capital dollars will be inappropriately used to change the bathroom.
  - e. Administrators at existing schools will have to think about managing space with other schools coming in, which was a distraction for Irving.
  - f. Charter and district schools are unequal.
  - g. Success has not had a good record with English Language Learners and students with disabilities.
  - h. Charters are not mandated to provide those services and district schools are.
  - i. District schools have more rigorous reporting standards and charters do not.
  
3. Shino Tanikawa, president of the Community Education Council of District 2 (“CEC 2”), read a statement on behalf of the Citywide Council on High Schools asserting that:
  - a. There would be a loss of high school seats that would be difficult to regain.
  - b. Excess space should be saved for other high schools.

- c. We now have several years of data for campuses with multiple schools that show students suffering diminished access to facilities and enrichment.
  - d. Spaces would have to be repurposed and high school students would suffer.
  - e. Brandeis campus has space that has been warehoused.
4. Shino Tanikawa, president of the CEC 2, read through specific points taken from CEC 2 resolutions number 30, 54, 57, and 58 that asserted the following:
  - a. Great majority of buildings in District 2 are at or above capacity and there is rising demand in terms of waitlists, class size increases, and reduction of pre-kindergarten and cluster rooms.
  - b. Co-locations, especially when one school has more resources than the other, are challenging and time-consuming for administrators.
  - c. Charter schools have their own means of finding space outside of DOE's space.
  - d. Parents can tell which side of a building is charter and which is district. High school students need to know that they are good students and do not need to be made to feel like second class citizens.
  - e. CEC 2 is generally against co-locations of multiple schools since there is an inefficient use of space.
  - f. The process of soliciting community input is flawed and the CEC should have the authority to approve or disapprove significant changes in school building utilization.
  - g. Charters were intended to be pedagogical laboratories but do not collaborate or share with district schools and do not serve at-risk students.
  - h. Charter schools compete with district schools for funding and create tensions in communities.
  - i. District 2 parents already have good options and it is not clear if District 2 families desire more charters.
5. Marian Burnbaum, SLT member of Washington Irving High School, asserted the following:
  - a. Washington Irving remains an important part of the campus community, and she is concerned that all students are being marginalized.
  - b. Suggests that member schools should have an opportunity to view entire physical plans for new schools before a hearing is held so that they can respond.
  - c. If access is restricted to any of the high school students, and elementary students are isolated, how will that affect fire exits and amenities?
  - d. The historic integrity of the building should be preserved.
  - e. Success will not stop at elementary grades.
  - f. Incentives are needed to help schools succeed.
  - g. The auditorium is being worked on during the school year, instead of during the summer.
  - h. Charter schools eject students and siphon money away from public schools.
  - i. Choice segregates students and the proposal should be re-examined based on Brown vs. Board of Education.

6. Thomas Hasler, SLT member of International High School at Union Square, asserted the following:
  - a. The building is built for high schools and cannot accommodate both high school and elementary school students.
  - b. It is difficult for principals to figure out a lunch schedule that accommodates all students, resulting in a lunch crunch.
  - c. Success has spent money on public relations and on its CEO, and the money used is a diversion of public money.
  - d. Protests against the PEP, where testimony is ignored.
7. Marie Rochford, PTA president of Washington Irving High School, expressed the opinion that this proposal makes students second class citizens.
8. Gretchen Ziegler, SLT member of Gramercy Arts, asserted the following:
  - a. The DOE has an attitude of teachers and students as “failing.”
  - b. Gramercy Arts has students that are successful.
  - c. Public school students get sent the message that they are not good enough.
  - d. Oppose this proposal to preserve the dignity and morale of public school students.
9. Principal Denise DiCarlo of Gramercy Arts asserted the following:
  - a. The building was made to be a high school, if there is to be another new school, it should be a high school.
  - b. There are metal detectors, making an adjustment for elementary and high school students is impossible.
  - c. Facilities are gone or in bad shape. The band room is gone and the elevators are not in good shape.
10. Multiple commenters suggested that the co-location would divert resources away from current students and result in inferior spaces and equipments for co-located schools.
11. One commenter asserted that she was interested in seeing more options in District 2 for elementary school students.
12. Multiple commenters who were parents of children at other Success elementary schools asserted that they were the parents of children with disabilities and that the education their children received at another Success elementary school has been phenomenal and that it is important to hear the voices of parents who want choice.
13. One commenter asserted that large high schools can offer a large variety of enrichment courses, something that smaller high schools cannot do and asked why elementary and high school kids have to pay for this co-location.
14. One commenter asserted that the district is losing high school seats.

15. One commenter asserted that this co-location would result in administrators being away from classrooms, away from students and away from where they are supposed to be.
16. Multiple commenters suggested that the mix of elementary and high schoolers is inappropriate, and that the building was designed for high school students.
17. One commenter who was a parent of a student at another Success school co-located with high schools suggested that the co-location of elementary students with high school students was not an issue and high school students were not very impacted as a result of their co-location. Space constraints are not due to the enrollment of elementary students, but just due to enrollment.
18. Multiple commenters who were parents of students at Success asserted that they were happy with school experience at Success. Shared spaces are not an issue and times in those spaces are fine. The Success school has transparency with administration contact.
19. One commenter praised the dedication and vision of teachers and schools and asserted that the co-location would result in painting over the murals on the lower floors, dismantling the vision of the building.
20. Dan Schreiber, SLT member for Gramercy Arts, asserted that data from DOE was scarce about Success Academy, and principals who are currently co-located with Success are asked not to talk about it.
21. One commenter asserted that Success is “toxic” to communities like Irving’s.
22. Multiple commenters asserted that Success charter schools marginalize the highest need students and transfer children with the highest needs out.
23. One commenter asserted that as a student at another charter school, the effects of her school’s co-location with another grade level are fine and that the elementary students could use the high school students as role models.
24. One commenter suggested that this proposal was not about co-existence, but intended to drive out other public schools as part of an agenda for privatization.
25. One commenter suggested that the number of floors should equal the number of schools in a building.

26. One commenter asserted that space utilization should not be 100% as that would limit space.
27. One commenter asserted that all existing schools are already occupying all of the space and already have all the space they will have and suggested that instead of building facilities for a new school, rather, build a facility for current schools.
28. One commenter asserted that as a current high school student at an existing Irving campus high school, she did not enjoy small children and cannot imagine another school on the campus.
29. A commenter asserted that financing and budgets are needed for great things in this building and that there was no library in the school.
30. Multiple commenters suggested that charters have opportunities to obtain other resources unlike public schools.
31. One commenter asserted that Success Academy is exclusive and discriminatory.
32. One written commenter asserted that Success Academy wants the real estate and will limit the other existing schools.

**The below comments were submitted in writing during the joint public hearing.**

33. A petition with approximately 540 signatures was submitted to the DOE that asked to stop the co-location on the grounds that the elementary school co-location would divert resources from the students in the building, straining shared spaces, decreasing fire exits and destroying the lobby and murals.
34. Written comments submitted to the DOE expressed concerns that aligned with many of the previous comments, and also that this proposal will displace students elsewhere and create larger class sizes.
35. CEC 2 Resolutions #30, 54, 57, and 58 were submitted and read during the hearing and are described in the above comment 4(a-i). The resolutions also cited the following points:
  - a. CECs should have the authority to approve or disapprove school closings, co-locations, and grade truncations since they can affect the enrollment of a school
  - b. There should be a moratorium on charter applications being approved until further analyses are done.
36. Citywide Council on High Schools submitted a statement that was read during the hearing and is described in the above comment 3(a-e).

**The DOE received a number of comments which do not directly relate to the proposal. Those comments are summarized below.**

37. A commenter asserted that schools statistically have same fate, but not qualitatively. Innovation Diploma Plus' daycare availability is critical to its student body.
38. A commenter asserted that teachers and administrators in the Brandeis campus schools that are co-located with another Success school are horrified at the way they are treated by Success.
39. A commenter asserted that the district is losing transfer high school seats from the Brandeis proposal.
40. One commenter asserted that there is a rush to do these things in a year's time.
41. One written commenter asserted strong animus towards Success Academy's founder.
42. One written commenter asserted that charter school franchises are ruining public school education.
43. One written commenter asserted that the sole purpose of charters is to break the teachers' union.

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

Comments 11, 12, 17, 18, and 23 are in favor of the proposal and do not require a response.

Comments 4(e), 5(c), 6(b), 20, 25, 26, and 32 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 buildings house multiple DOE schools while others house DOE and public charter schools. 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 DOE seeks to fully utilize all its building capacity to serve students. The DOE does not distinguish between students attending public charter schools and students attending DOE schools. In all cases, the DOE seeks to provide high quality education and allow parents/students to choose where to attend.

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

The 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 the location for each in the building will be made in consultation with the Principals of each school and the Office of Space Planning if this proposal is approved. The BUP demonstrates that there is sufficient space in the building to accommodate the proposed co-location.

If the Principals are unable to agree upon a schedule for shared spaces, there is a mediation process outlined in the Campus Policy Memo, which is available at

<http://schools.nyc.gov/community/campusgov>.

With respect to concerns that the Irving Campus is already overcrowded, according to the 2010-2011 Enrollment Capacity Utilization Report, the building has a capacity of 2,847 seats and it served only 1,861 students in the 2011-2012 school year, yielding a building utilization rate of only 65%. In the 2012-2013 school year, M460 is projected to serve 1,906 students, yielding a building utilization rate of 67%. Furthermore, the EIS provides annual enrollment projections for each school demonstrating the total planned enrollment remains, with the exception of the final two years of the proposal, below the building capacity for all years of the proposal. In 2017-2018, the final year of this proposal, when Washington Irving has phased out and all schools are at full-scale, the utilization rate of the building is projected to range from 92% to 104%. Despite a utilization figure of greater than 100%, there will be excess half-size and quarter-size rooms allocated to schools above and beyond their baseline Footprint. The DOE verified the amount of space available in the building through a walkthrough and survey by Richard Bocchicchio, Manhattan Director of Space Planning. The space allocation plan in the amended BUP demonstrates that all schools would receive their baseline footprint allocation of rooms as they continue to phase-in (or phase-out, in the case of Washington Irving High School). The allocation of space for High Schools requires schools to program their space for maximum efficiency.

The allocation provided for special needs students is consistent citywide, and is applied consistently in this proposal.

Furthermore, comments 5(c) and 33 assert that there are safety concerns around fire drills.

Every school has a fire safety plan which includes plans for fire drills and evacuations in case of emergencies. All Irving campus schools should work with the Office of Safety and Youth Development to address any concerns or modify the fire safety plan as needed.

Additionally, the School Safety Committee, described in detail above, is responsible for developing a comprehensive School Safety Plan that defines the normal operations of the site and what procedures are in place in the event of an emergency. The School Safety Plan is updated annually by the Committee to meet the changing security needs, changes in organization and building conditions and any other factors; these updates could also be made at any other time when it is necessary to address security concerns. The Committee will also address safety matters on an ongoing basis and make appropriate recommendations to the principals when it identifies the need for additional security measures.

Finally, several buildings in the city that are co-located with both district and/or charter schools have to make similar plans for fire safety in the face of stairwells, and other building configuration issues. The final decision on how to appropriately plan for these situations resides with the Building Council.

Comments 1(c), 2(f), 3(c), 4(b), 4(d), 4(h), 5(h, i), 6(c), 7, 8(c-d), 10, 20, and 35(b) concern the availability of resources for DOE schools and the contention that charter schools have preferential to additional space and resources.

With regard to the distribution of space, as discussed above, the DOE applies the Citywide Instructional Footprint to allocate a total room count to each organization as they operate, some phasing into and one phasing out of the Washington Irving campus. The assignment of specific rooms and location for each school in the building will be made in consultation with the Principals of each school and the Office of Space Planning if this proposal is approved. With regard to funding and other resources, charter schools receive public funding pursuant to a formula created by the state legislature, and overseen by the New York State Education Department. The DOE does not control this formula, and the funding formula for SACS is not affected by the approval or rejection of this proposal. Charter management organizations, just like any other school citywide, may also choose to raise additional funds to purchase various resources they feel would benefit their students (e.g., Smartboards, fieldtrips, etc). However, pursuant to Chancellor's Regulation A-190, the Chancellor or his/her designee must first authorize in writing any proposed capital improvement or facility upgrade in excess of five thousand dollars, regardless of the source of funding, made to accommodate the co-location of a charter school within a public school building. For any such improvements or upgrades that have been approved by the Chancellor, capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter school within the public school building.

With respect to concerns that charter schools take resources away from DOE schools, it should be noted that charter schools receive public funding based on their student enrollment, as do DOE schools. To the extent that a student opts to attend a charter school rather than a particular zoned DOE school, that zoned DOE school's enrollment may decline, resulting in less per student funding. However, this very same result occurs whenever a student decides to attend a choice, unzoned DOE school, rather than his or her zoned school. In this regard, the impact of a parent selecting a charter school is no different than the impact of a parent selecting an

alternative DOE school. The DOE believes the ability for parents to choose where they wish their child to attend school is of paramount importance, and is committed to increasing the options available to families.

Comments 1(e), 2(d), 3(d), 5(d), 5(g), and 19 relate to the campus construction that has been proposed for the Irving campus and contend that 1) retrofitting will be necessary to accommodate SACS and/or 2) the proposal will affect Irving's murals.

Construction work that has already been completed or is underway will not be jeopardized as a result of this co-location. It is DOE policy to restore murals whenever possible and not to paint over art work.

The additional restructuring work to be undertaken to support a seventh school in the building includes the conversion of two full-size rooms to become one multi-purpose room, slated for use by SACS students for its lunch service and physical education. Phase one of this work would be undertaken for the 2012-2013 school year and over the summer. Once this work is complete M460 will have a total of 115 full size spaces, 27 half size spaces, 19 quarter-size spaces and the equivalent of 5.0 full size designed administrative spaces.

With respect to comments concerning the purported need to retrofit the Washington Irving Campus to accommodate SACS: As discussed above, the only space being renovated specifically for the elementary students is the conversion of two full-size rooms into a multi-purpose room, which will be used by SACS. All eligible capital improvement or facility enhancement work completed by the DOE or the charter school in charter school space will generate matching funds for the co-located district schools. The DOE will meet the matching amount with consideration for principals' requests and prioritization.

Comments 2(g, h, i), 4(g), 22, and 31 concern the extent to which Success Charter Network schools serve students with special needs or English Language Learners, and contend that SACS is not attempting to recruit or retain ELL students or highest need students. These comments also imply that Success Academy schools discharge students, particularly ELL and special need students, in order to improve their performance.

Under recent amendments 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 Learners 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. SACS must admit all students according to its lottery preferences, and may not turn away a student because of language ability, behavioral problems or services required by an IEP. SACS has an admission preference for ELL students. In addition, the charter law requires charter schools submit a variety of information, including attrition rates to their authorizer and to the State on August 1<sup>st</sup>, for the preceding school year. This information is typically available that Winter/Spring.

The DOE 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.

Comments 1(a), 3(a, b), 9(a), 14, 27, and 28 contend that the available space in the Washington Irving campus should be utilized to increase the number of high school seats in Manhattan / District 2, or specific high schools currently located in the Washington Irving Campus.

The DOE closely monitors the need to create additional elementary, middle and high school seats across the city and believes that this proposal will meet a critical need in District 2: additional quality elementary school seats. Within any district or borough, there are other competing priorities. The DOE does not believe this proposal will impede the Department from being able to increase the number of quality high school seats in other buildings around the city. The DOE, will continue to work towards improving of the quality of existing high schools and developing new, high-quality high school options in Manhattan and all boroughs.

With regards to comments 2(c) and 9(b) it is typical in most co-located buildings for schools to use different entrances such that the elementary school students will not have go through scanning. In proposing this, the DOE is not favoring one organization over another. It is current NYPD policy that students enrolled in grades kindergarten through five, whether in a DOE school or a public charter school, do not go through scanning. Adults visiting SACS would be required to enter through scanners.

Comment 24 asserts that charter schools represent the privatization of education.

Charter schools are public schools available for all residents of New York City. They are publicly funded in a similar manner as district schools, but are operated by external organizations. Each school is governed by an independent board of directors.

Comment 4(c) suggests that Success Charter Network should open schools in private 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. The DOE does not lease space directly for charter schools; a charter interested in parochial school space would have to acquire or lease that space with private funds.

Comment 2(a) asserts that the DOE previously stated to the commenter a year ago that the space would not be allocated to a charter school.

The DOE analyzes the space needs of schools and the space available in DOE buildings on an ongoing basis. While the DOE makes every effort to provide the most accurate information possible, changes in enrollment, capital planning, and demand for space do sometimes cause the DOE to change its position on the use of a particular building.

Comments 1(d), 2(e), 15, and 21 assert that Success Charter Network schools have not demonstrated a willingness to work collaboratively with other schools with which they share buildings, and that co-locations will result in distractions for administrations of co-located schools.

The DOE expects and anticipates SACS and the other high schools in this building will work collaboratively to build a strong work relationship through the Building Council and Shared Space Committee. 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>. In any building where more than one school is co-located, the Building Council – consisting of the Principal of each school – meets regularly to address issues related to space allocations and shared space usage. In buildings with a charter school, there is also a Shared Space Committee, which meets at least 4 times per year, and includes a parent and teacher representative from each school. This committee monitors the implementation of the shared space schedule, and identifies areas of concern that can be addressed by the Building Council. According to Chancellor’s Regulation A-190, the shared space committee shall be comprised of the principal (or an assistant principal of the D75 school organization), a teacher, and a parent from each co-located school or D75 school organization. With respect to a non-charter school’s teacher and parent members, such shared space committee members shall be selected by the corresponding constituent member of the SLT at that school.

The collaboration required and issues addressed by a Building Council do not depend upon the schools serving the same grades. While the elementary school would share fewer spaces with the high schools, there is no reason why the Building Council could not continue to be a collaborative environment in which all schools work together to meet the needs of all students.

Comments 4(f), 5(b), 6(d), and 35(a) concern the process by which the DOE solicits and receives feedback on proposals for significant changes in school utilization.

The DOE complied with all mandatory disclosure requirements, and voluntarily held additional an additional engagement meeting with the principals and SLTs of all current Irving schools. The DOE has and will continue to review community feedback consistent with Chancellor’s Regulation A-190.

Consistent with state law, the DOE will provide an analysis of all public comments received at joint public hearings or through the dedicated voicemail number and/or e-mail address up to 24 hours before the scheduled Panel vote.

Comments 4(a) and 4(i) state that there are sufficient high quality elementary schools in District 2 and there is not clear interest from District 2 parents for more charter schools.

District 2 has a number of high-performing elementary schools. Regardless, recent housing growth and demographic changes have resulted in overcrowding and waitlists at many schools. To address these issues, the DOE has opened and continues to open new district elementary schools. Additional elementary capacity in charter schools is another component of the DOE's strategy to meet the demand for elementary school seats.

Furthermore, several of the comments in support of this proposal were from District 2 parents interested in additional options for their children. District 2 families do have many options for their children, but charter elementary schools are not currently among those options.

Comment 8(a) asserts that the DOE regards teachers and students as "failing."

The DOE does not make proposals for changes in school utilization in order to punish or label any students or teachers. Rather, the DOE's goal is to provide all students with the best possible educational opportunities. The DOE recognizes and agrees with comment 8(b).

Comments 1(b), 2(b), 6(a), and 16 question placing elementary students in a building with high school students.

Due to space limitations, it is not unusual for varying grade levels to be co-located together. While it is not a common practice for an elementary school to be co-located with a high school, there are successful examples of K-12 buildings or campuses in New York City.

These examples include:

- The Julia Richman Educational Complex, which houses four small high schools, a K-8 school, and a District 75 program;
- Mott Hall IV, a middle school, which shares a building with Eagle Academy for Young Men II, which currently serves sixth through eighth grade, and Leadership Preparatory Ocean Hill Charter School, which currently serves kindergarten and first grade;
- Harlem Success Academy 4, an elementary school, which shares a building with Opportunity Charter School, which serves sixth through twelfth grade in District 3; and
- J.H.S. 13 Jackie Robinson, a middle school, which shares a building with Central Park East I, an elementary school, and Central Park East High School.

Pursuant to Chancellor's Regulation A-414, every school/ campus is mandated to form a School Safety Committee, which is responsible for developing a comprehensive School Safety Plan that defines the normal operations of the site and what procedures are in place in the event of an emergency. School Safety Plan is updated annually by the Committee to meet the changing security needs, changes in organization and building conditions and any other factors; these updates could also be made at any other time when it is necessary to address security concerns.

The Committee will also address safety matters on an ongoing basis and make appropriate recommendations to the Principal(s) when it identifies the need for additional security measures.

Comments 5(a, f), 8(b), 9(c), 13, 29, 30 and 34 express several reasons for opposition addressed in the sections above, and also raise the need for more resources for other District 2 schools.

The co-location of a public charter school does not impact the resources available to other District 2 schools, other than by enrolling students who might have attended those schools. The DOE supports choice over requiring students to attend a school they do not prefer. Co-locating a public charter school that enrolls District 2 students helps address District 2 needs by utilizing previously under-utilized capacity.

The DOE reviews enrollment projections, capacity, and utilization annually. Should this analysis indicate a new seat need, the DOE may propose amendments to the Capital Plan. Capacity and projected demand are analyzed on a district by district basis, and additional capacity is proposed for each district based on the overall district need.

Comment 29 also asserts the need for a library.

In the case of district schools in New York City, schools are funded through a per pupil allocation. That is, funding “follows” the students and is weighted based on students’ grade level and need (incoming proficiency level and special education/English Language Learner/Title I status). Principals have discretion over their budget and make choices about how to prioritize their resources, including deciding whether to purchase textbooks or invest in books for a new library.

Comments 1(f), 3(e), and 5(e) assert that SA Manhattan – 1 will seek more space in the building in the future.

The BUP attached to the EIS for this proposal lays out in detail the space allocations for each school in the building over the course of SA Manhattan – 1’s phase-in. If for any reason the space allocation in the BUP were to change, the DOE would need to generate a revised BUP or EIS and BUP, which would be subject to approval by the PEP.

Comments 37-43 do not relate directly to the proposed co-location and, therefore, have not been addressed.

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

No changes have been made to this proposal.