

## **Public Comment Analysis**

Date: March 20, 2012

Topic: The Proposed Co-location of the Fifth Grade of Harlem Success Academy Charter School 2 (84M384) and the Fifth Grade of Harlem Success Academy Charter School 3 (84M385) with P.S. 185 Early Childhood Discovery and Design Magnet School, (03M185), P.S. 208 Alain L. Locke Magnet School for Environmental Stewardship (03M208), Harlem Link Charter School (84M329), P226M@P208M (75M226), in Building M185/208 During the 2012-2013 School Year

Date of Panel Vote: March 21, 2012

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### **Summary of Proposal**

The New York City Department of Education (“DOE”) is proposing to co-locate the fifth grade of Harlem Success Academy Charter School 2 (84M384, “HSA 2”) and the fifth grade of Harlem Success Academy Charter School 3 (84M385, “HSA 3”) in Tandem Buildings M185 and M208 (“M185/208”), located respectively at 20 West 112<sup>th</sup> Street, New York, NY 10026 and 21 West 111<sup>th</sup> Street, New York, NY 10026, in Community School District 3, for the 2012-2013 school year only.<sup>1</sup> “Tandem buildings” are two separate buildings with separate entrances, which are joined by a central core containing a shared gymnasium, auditorium, and cafeterias. During the 2012-2013 school year, HSA 2 would serve 65-70 fifth-grade students, and HSA 3 would serve 75-85 fifth-grade students, in M185/208 in the M208 portion of the building. The students from HSA 2 and HSA 3 would be served jointly in M185/208 as a unified fifth-grade cohort of 140-155 students. HSA 2 and HSA 3 would be co-located in M185/208 with four existing schools: P.S. 185 Early Childhood Discovery and Design Magnet School (03M185, “P.S. 185”), a zoned early childhood school in the M185 building serving kindergarten through second grades and offering a full-day pre-kindergarten program; P.S. 208 Alain L. Locke Magnet School for Environmental Stewardship (03M208, “P.S. 208”), a zoned elementary school in the M208 building serving third through fifth grades; Harlem Link Charter School (84M329, “Harlem Link”), a public charter school, located in both the M185 and M208 buildings, serving students in kindergarten through fifth grades; and P226M (75M226, “P226M@P208M”), one site of a multi-site District 75 school, located in M208. 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 2 is an existing charter school serving kindergarten through fourth grades in building M030, located at 144-176 East 128<sup>th</sup> Street, New York, NY 10035, in Community School District 5, approximately 1.2 miles from M185/208. HSA 2 is co-located with two other schools in the M030 building: P.S. 30 Hernandez/Hughes (05M030, “P.S. 30”), a zoned elementary school serving students in kindergarten through fifth grades as well as a pre-kindergarten program, and P138M@P030M (75M138, “P138M@P030M”), one site of a multi-site District 75 school. If this proposal is approved, HSA 2’s kindergarten through fourth grade would continue to be served at this site and would continue to be co-located with P.S. 30 and P138M@P030M.

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<sup>1</sup> HSA 2 and HSA 3 are currently undergoing a formal name change process. If approved, the new names will be Success Academy Charter School – Harlem 2 and Success Academy Charter School – Harlem 3, respectively.

HSA 3 is an existing charter school serving kindergarten through fourth grades in building M101, located at 141 East 111<sup>th</sup> Street, New York, NY 10029 in Community School District 4, approximately 0.5 miles from M185/208. HSA 3 is co-located with two other schools in the M101 building: Mosaic Preparatory Academy (04M375, “Mosaic”), a choice elementary school serving kindergarten through fifth grades as well as a pre-kindergarten program; and P811M@P101M (75M811, “P811M@P101M”), one site of a multi-site District 75 school. If this proposal is approved, HSA 3’s kindergarten through fourth grades would continue to be served at this site and would continue to be co-located with Mosaic and P811M@M101.

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 2 and HSA 3 to serve kindergarten through fifth grades. However, after evaluating the space available in the buildings currently housing HSA 2 and HSA 3, the DOE has concluded that M030 and M101 can accommodate only the schools’ kindergarten through fourth-grade students. Therefore, the DOE is proposing to co-locate the fifth grades of HSA 2 and HSA 3 in M185/208 for one year. The DOE will consider all long-term options to accommodate the future anticipated growth of HSA 2 and HSA 3 to include grades six through eight, and will propose those options in a separate Educational Impact Statement (“EIS”).<sup>2</sup> If this proposal to co-locate the fifth grades of HSA 2 and HSA 3 in M185/208 is approved, fifth-grade students from HSA 2 and HSA 3 would be served in the M185/208 building in 2012-2013.

Any proposal regarding the future siting and/or co-location of HSA 2 and HSA 3’s fifth through eighth grades would be posted in a future EIS subject to a vote by the Panel for Educational Policy. Any proposal for the use of M185/208 beyond 2012-2013 would also be proposed in a future EIS.

P.S. 185 is a zoned early childhood school that admits students in kindergarten through second grades in accordance with Chancellor’s Regulation A-101. P.S. 185 also has a pre-kindergarten program, which admits students through the standard universal pre-kindergarten admissions process. (Admissions procedures are discussed in more detail in section III.A. of the EIS. P.S. 208 is a zoned elementary school that admits students in third through fifth grades in accordance with Chancellor’s Regulation A-101. Although they are two distinct schools, P.S. 185 and P.S. 208 serve the same zone and students generally articulate from the second grade at P.S. 185 to the third grade at P.S. 208. P226M serves 275 students in grades K-12 and offers a pre-kindergarten program.<sup>3</sup> P226M is split-sited across eight locations, including M185/208.<sup>4</sup> P226M@P208M currently serves approximately 38 students in third through fifth grades.<sup>5</sup> Harlem Link is a public charter school serving students in kindergarten through fifth grades and admits students via lottery.

According to the 2010-2011 Enrollment Capacity Utilization Report (the “Blue Book”), M185/208 has the combined capacity to serve 983 students. Currently, the building serves 774 students,<sup>6</sup> yielding a

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<sup>2</sup> HSA 2 and HSA 3 are currently authorized to serve kindergarten through fifth grades. When these charters are up for renewal in 2013, HSA 2 and HSA 3 intend to apply to expand the grades served at each school to kindergarten through eighth grades. SUNY has the authority to approve or deny that request.

<sup>3</sup> 2010-2011 Audited Register and school-reported data.

<sup>4</sup> P226M also serves students at the following sites, all in Manhattan: P226M @ High School for Health Professions & Human Services, located at 345 East 15<sup>th</sup> Street; P226M @ Millennium High School, located at 75 Broad Street; P226M @ Julia Richman High School located at 317 East 67<sup>th</sup> Street; P226M @ Urban Academy High School, located at 317 East 67<sup>th</sup> St; P226M @ Pace University, located at 1 Pace Plaza; P226M @ Manhattan School, located at 12 West 12<sup>th</sup> Street; P226M @ P076M, located at 220 West 121<sup>st</sup> Street.

<sup>5</sup> School-reported data.

<sup>6</sup> 2011-2012 Audited Register. This figure represents enrollment at P.S. 185, P.S. 208, Harlem Link, and P226M@P208M.

building utilization rate of 79%.<sup>7</sup> If this proposal is approved, in 2012-2013, HSA 2 and HSA 3 will serve approximately 140-155 students in fifth grade at M185/208. If this proposal is approved, in 2012-2013 M185/208 is projected to serve approximately 840-996 students in total at HSA 3, HSA 2, P.S. 185, P.S. 208, Harlem Link, and P226M@P208M, yielding an estimated building utilization rate of 85-101%. While this utilization rate might imply that there is not room in the school for the new grade, 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. Moreover, as discussed in section III.B. of the EIS and in the attached Building Utilization Plan (“BUP”), the building has sufficient space to provide all these schools with at least their baseline room allocations under the Citywide Instructional Footprint (“Footprint”). Therefore, the M185/208 building has the capacity to accommodate all existing schools along with the proposed addition of the fifth grades of HSA 3 and HSA 2.

As mentioned above, Success Academies currently manages a total of nine public charter schools in Manhattan, Brooklyn and the Bronx. 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 and HSA 3, earned an overall score of A and earned A grades in each of the three subsections - 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%. In 2010-2011, 71.7% of third grade students at HSA 3 achieved proficiency on the New York State English Language Arts exam and 92.8% achieved proficiency on the mathematics exam. By contrast, the District 4 average third grade English Language Arts proficiency rate in 2010-2011 was 40.9% and the District 4 average third grade math proficiency rate in 2010-2011 was 48.4%. HSA 2’s and HSA 3’s third grade proficiency rates in 2010-2011 also exceeded those of District 3, which had third grade proficiency rates of 61% and 64% in English Language Arts and math, respectively, district-wide.

The DOE believes that HSA 2’s, HSA 3’s, and Success Academies’ records of success support the growth of these two schools. This proposal to site HSA 2’s and HSA 3’s fifth grades in M185/208 would allow those schools to continue providing 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 BUP which can be accessed here: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2011-2012/Mar212012Proposals.htm>

Copies of EIS and BUP are available in main offices of P.S. 185, P.S. 208 Alain, Harlem Link Charter School, and P226M@P208M.

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<sup>7</sup> The utilization rate reported here may differ from that published in the 2010-2011 Blue Book because the building enrollment figures referenced throughout this document and used in the calculation of utilization rates are based on the audited enrollment as of October 31, 2011. This 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.

## I. Summary of Comments Received at the Joint Public Hearing

A joint public hearing regarding this proposal was held at the M185/208 building on March 15, 2012. At that hearing, interested parties had an opportunity to provide input on the proposal. Approximately 400 members of the public attended the hearing, and 58 people spoke. Present at the meeting were PS. 185 Principal Jane Murphy; P.S. 185 Parent Representatives Gulshan Akhtar and Taleshia Woods; P.S. 208 Principal Susan Green; P.S. 208 SLT Representative Symone Manning; P.S. 208 Students Representative Ania Anis; P226M Principal Shelly Klainberg; P226M SLT Representative Angela Donadel; Harlem Link Principal Steve Evangelista; District 3 Community Education Council (“CEC 3”) President Christine Annechino; CEC 3 Representative Noah Gotbaum; CEC 3 Representative Laurie Frey; New York State Senator Bill Perkins; New York City Councilmember Gale Brewer; Nicholas Smith, representing New York State Assembly Member Linda Rosenthal; Safiya Raheem, representing New York City Councilmember Inez Dickens; Community Board 10 Representatives Jennifer Prince and Steven Watkins; District 3 Presidents’ Council Representative Michelle Ciulla Lipkin; District 3 Acting Superintendent Esther Friedman; Gregg Bethiel, Executive Director of the DOE’s Office of School Programs and Partnerships; Yael Kalban, Director of Manhattan Planning in the DOE Office of Portfolio Management; and Maureen Murphy, a representative of State University of New York’s (“SUNY”) Charter School Institute (“CSI”).

### The following comments and remarks were made at the joint public hearing on January 24, 2012:

1. *Bill Perkins, NYS Senator, asserted that:*
  - a. Success Charter Network’s filming of the hearing is intrusive and should be more limited.
  - b. Proposals like this only take place in communities of color, like Harlem.
  - c. The next step of the charter movement is private, for-profit charter schools, which is being pushed in Albany. The charter movement is a wolf in sheep’s clothing.
2. *Taleshia Woods, P.S. 185 Parent Representative, asserted that:*
  - a. The conflict should not be between charters and district schools because any school that helps children is a good thing. People should not fight each other as million dollar apartments are being built and the community is being brainwashed.
  - b. Charter schools should build their own buildings.
  - c. P.S. 185 is very close to being a good school, but the school has been sabotaged for many years as the DOE has not given the school what it needs.
3. *Ania Anis, P.S. 208 Student Representative, asserted that:*
  - a. There is not enough space for two more schools in the building.
  - b. Students at the existing schools in the building are very happy with their schools, but their smiles will disappear if this proposal is implemented.
4. *Symone Manning, P.S. 208 SLT representative, asserted that:*
  - a. The proposal would be detrimental to P.S. 208’s growth as a magnet school.
  - b. The children at the schools in M185/208 should receive a democratic and equitable education. The goals of charter schools, according to charter law, are just like the goals of the schools in M185/208, so the issue is not about arguing with fellow parents; rather, schools in M185/208 just want space to grow. All choices should be available, but M185/208 should get what they need.
5. *Camille Goodridge, CEC 3 Representative, asserted that:*
  - a. The co-location of out of district schools does not promote the choice that the DOE speaks of. The commenter is opposed to the way that the DOE has planned the proposal, which she characterized as happening without real exposure to the perspectives of the schools in the building.
  - b. This proposal could cause all magnet schools to lose their grants, and the magnet schools are in place to create diversity.

- c. Schools in M185/208 are being squeezed and pushed-out, which is not fair and does not provide equal, quality education to all students.
6. *Laurie Frey, CEC 3 Representative, asserted that:*
  - a. The schools in M185/208 will be squeezed like lemons by the proposal. The proposal states that the capacity of M185/208 is 983 students, but the Blue Book shows a capacity of 642 students. This means the schools are squeezed, although the historical method has little wiggle room.
  - b. The schools are entitled to up to eight rooms of administrative space and have targeted class sizes of 20 students in third grade and 28 students in fourth and fifth grade. Once federal and state funded rooms are added, if there are only 22 rooms available for P.S. 208, then that is three rooms short.
7. *Christine Annechino, President of CEC 3, asserted the following:*
  - a. The proposal can be demonstrated by having the crowd that is seated in three sections at the hearing stand up and squish into one space together.
  - b. The documents published by the DOE are unbelievable. Moving District 4 and 5 schools to District 3 is unbelievable. Putting six schools in M185/208 is unbelievable.
  - c. There is space in Districts 4 and 5 to accommodate this proposal, if not in public school buildings, at least in other buildings.
  - d. The definition of co-location to Mayor Michael Bloomberg and Eva Moskowitz is to move in and not cooperate or work with the existing schools in the building. Students in schools where Success schools are co-located suffer from the co-location.
8. *Noah Gotbaum, CEC 3 Representative, asserted the following:*
  - a. The hearing is not offering students who are present a lesson in democracy because the decision has already been made.
  - b. Two years ago, District 3 received an \$11 million magnet grant to upgrade and make attractive the programs in some of the district's struggling schools and to end minority segregation. This was undertaken in order to provide choice for 3,000 students in the district.
  - c. The enrollment numbers for the magnet grant schools in M185/208 are below the targets necessary for the grant, which undermines choice for parents, rather than supporting it.
  - d. The grant is being destroyed by this proposal.
  - e. If the commenter were an HSA parent, he says, he would not like being moved from one district to another.
  - f. In response to questions about why the DOE would propose for the fifth grades of HSA 2 and HSA 3 to be moved to District 3, the DOE responded that "this is the plan." This response ignores community input and planning.
  - g. HSA says the terrific schools in M185/208 are failing. However, P.S. 208 has an ELL population of 15%, while at all Success Charter Network ("SCN") schools, very few ELL students have taken state tests. Additionally, the magnet schools serve a far higher proportion of self-contained and integrated co-teaching ("ICT") classes than SCN schools.
  - h. The proposal is about competition, not co-location, which means there are winners and losers. The proposal is not cooperation; instead, it is a take-over.
9. *Angela Donadel, P226M SLT representative, asserted the following:*
  - a. Students with Autism and developmental delays are prevalent at P226M, and that population is being kicked around. Nonetheless, the teachers at P226M have done a great job with students like the commenter's son.
  - b. Charter schools are not attempting to make the school system better; rather, they are trying to disband the system. Schools like P226M could do everything charters do if they were allowed to.
10. *Steve Evangelista, Harlem Link principal, asserted the following:*
  - a. As principal of Harlem Link, he is a member of the building council for M185/208, which does a great job of collaborating. The DOE's documents are lengthy, and principals have

- many responsibilities that make it difficult to find time to read through those documents thoroughly. The DOE should get all the principals on the same page in order to inspire trust and allow the members of the building council to continue working well together. The DOE should also provide support and equitable distribution of resources to the building council.
- b. As principal, he has no private office and there is no office for a social worker. There is no transparency about how space is used across districts. If the existing schools in M185/208 have to sacrifice rooms for the proposal, then would the DOE pay to put up dividers to fit people into the rooms the schools are left with, so that the plan would work?
11. *Gale Brewer, NYC Councilmember, asserted the following:*
    - a. The magnet schools are doing great things, and they are talked about around the City as a result. The grant mandates that schools grow, which is why the proposal jeopardizes the grant. The councilmember will ensure that nothing stops the grant from succeeding and that Success Charter Network is not allowed to come into the building. Though the councilmember is not against charters, she is against the proposed co-location.
  12. *Nicholas Smith, speaking on behalf of NYS Assembly Member Linda Rosenthal, asserted the following:*

The assembly member has been a strong advocate of providing children with the best education possible. Another Success Charter, Upper West Success, was sited in the Brandeis campus during the past year, and the school originally said it would give priority to out-of-district ELL students, in order to serve underserved populations, but it has now proposed to revise its charter to siphon students from area schools. The change will jeopardize magnet funding because HSA schools will draw away students needed by magnet schools to reach enrollment targets. The proposal for M185/208 will also come at the expense of magnet funding. The proposal will weaken, rather than strengthen, options for families.
  13. *Safiya Raheem, speaking on behalf of Councilmember Inez Dickens, asserted the following:*
    - a. The co-location of Success charters reduces the amount of good education opportunities because they strip resources from students in existing schools.
    - b. Inequities resulting from co-locations are concentrated in the councilmember's district and communities of color. This jeopardizes the magnet grant.
    - c. According to the EIS, the DOE has capped enrollment at P.S. 185 and P.S. 208 to 214 and 201 students, in order to accommodate the proposal. This disregards the magnet grant quotas, attempting to undermine the success and growth of these schools.
    - d. Overcrowding does not work for anyone, and the Footprint, as a mathematical calculation has no idea how students move through a building. The proposal puts 200 students in a gym and provides no elbow room in the cafeteria.
    - e. Real students are not numbers on a spreadsheet.
    - f. Public schools can be fixed without separate and unequal schools.
  14. *Jennifer Prince and Steven Watkins, Community Board 10 representatives, asserted the following:*
    - a. Community Board 10 is opposed to the co-location. The community board came to this decision after walking the halls of M185/208, talking to staff, and witnessing collaborative instruction. The building already houses four schools, and space is limited. An additional school would have a harmful impact.
    - b. Shared spaces are barely manageable now, and the proposal would make things even worse.
    - c. The DOE should listen to the principals of the schools currently in the building, which it has not done. People should work together, instead of being pitted against each other.
  15. *Michelle Ciulla Lipkin, District 3 Presidents' Council representative, asserted the following:*
    - a. This proposal is a district-wide fight, and there are supporters present at the hearing from many other places around the district. The Presidents' Council is deeply opposed to the proposal.

- b. P.S. 185 and P.S. 208 are expected to grow for the magnet grant. The co-location would bring out of district students into the building and overcrowd the building.
- c. The students brought into the building by the proposal would be given priority to attend District 3 middle schools, which would further overcrowd those schools.

*Comments supporting the proposal*

- 16. Several commenters asserted that they are from this community, too, and the elected officials at the hearing need to represent their interests as well, and they should not be denied access to HSA schools in the community.
- 17. Several commenters asserted that their children were turned away from these and other district schools because they were told there were not enough seats or because the schools said they could not serve the students' special needs. Their children are now thriving at HSA and they are happy they had the option.
- 18. Several commenters asserted that all they want is for their children to have every opportunity to go to top universities and be successful in life, and they need a high-quality education in order to achieve that. HSA provides that kind of education.
- 19. Several commenters asserted that students at HSA schools are achieving much higher levels of proficiency on the New York State English Language Arts and Mathematics assessments than the students in P.S. 208 and P.S. 185.
- 20. Several commenters asserted that HSA serves all children, including those with special needs, and focuses on students with low reading levels, and further asserted that it is students with special needs who receive testing accommodations like extra time.
- 21. One commenter asserted that she has children in both HSA and in Mosaic Prep, a district school, and both are succeeding, but the schools in this building are not, and we should come together as a community.
- 22. Several HSA students asserted that just like P.S. 185 and P.S. 208 have smart students who want to learn, so do they, and they need a place to go to fifth grade and continue their education so they can be successful in life. They asked to share the space in the building.
- 23. One commenter asserted that charter schools are public schools, too, and those children deserve an education, and that this building doesn't belong to anyone, it's a public school.
- 24. One commenter asserted that there is no reason to be scared of an HSA co-location. The schools are wonderful, with smart, well-behaved students and great staff. It will be fine, HSA will be a good neighbor.
- 25. One commenter asserted that competition is good and makes you better.
- 26. One commenter asserted that everyone is concerned only with the grant money, and not with the quality of the schools.
- 27. One commenter noted that another commenter stated that charter schools are only co-locating in Harlem. The commenter asserted that this is the case because it is only in Harlem that the community needs to fight for high-quality educational opportunities for their children and for better schools than they had access to as children.
- 28. One commenter asserted that someone else had mentioned the "demise of public education as we know it," and that we should applaud that, because public education has been failing our children. He asserted that the problem is the union, and that Eva Moskowitz is doing great things.

*Comments opposing the proposal*

- 29. Several commenters asserted that there is not enough space in the M185/208 building for HSA 2 and 3.
- 30. Several commenters asserted that classes at P.S. 208 will become overcrowded if this proposal is approved.
- 31. Several commenters asserted that these district schools need space and resources in order to be successful, and they will not have that if HSA comes in.

32. Several commenters asserted that this co-location will threaten the magnet grant awarded to P.S. 185 and P.S. 208. P.S. 208's magnet grant is creating model green programs for the district and is good for the environment.
33. Several commenters asserted that HSA should get their own building.
34. Several commenters asserted that these HSA schools should go to space in their own districts, not in District 3, which is already overcrowded.
35. Several commenters asserted that they are not opposed to charters or to HSA, but that they are opposed to co-locations and that there is no space for these schools here.
36. Several commenters asserted their support for P.S. 208 and P.S. 185, noting that the schools have teachers and staff who care a great deal about their students and work very hard, and that the schools have excellent programs, including the integration of technology.
37. Several commenters asserted that the community needs to fight this proposal, and that they should be fighting against the DOE, not against their own community. They further asserted that children from this community attend P.S. 185 and P.S. 208, Harlem Link, and HSA schools, and they should not be fighting against each other but should be fighting together against the DOE.
38. Several commenters asserted that they have seen what happens in other HSA co-locations and even when they are called "temporary," they are not. They asserted that students from district schools need to be taught in closets and don't have access to the same space or resources as the HSA students.
39. Several students from P.S. 208 asserted that they love their school, and it is like family. They further asserted that they also have dreams of going to college and being successful, and that they would share if they had space, but there is not space for another school.
40. Several commenters asserted that their children will not have access to the gym or other shared spaces and will have to eat lunch early if HSA 2 and 3 are co-located in the building.
41. One commenter asserted that HSA is only interested in money, and that her child used to go to HSA and didn't like it but is now very happy in P.S. 208.
42. One commenter asserted that her tax dollars should be going to support her daughter's education, and that she should have access to space and a quality education.
43. One student asserted that she used to attend HSA, and teachers would give extra time on tests and tell students to check their answers.
44. One commenter asserted that charter schools are going to replace all district schools and begin charging a fee, and there will be no more free public education. The commenter further asserted that HSA only wants to come to this building to take some of the magnet grant money.
45. A teacher at P.S. 208 asserted that the space HSA will take in the building will divide P.S. 208, and force children with special needs to travel back and forth from the 185 side of the building, which will cut into the time they receive services. The commenter also noted that a high percentage of P.S. 208's students require speech, SETTS, counseling, or other services.
46. One commenter asserted that HSA schools may be good, but the students don't learn socialization skills. They are penalized if they speak to their neighbors, and there is a "you against me" culture in the school, even though the children play together in the neighborhood after school.
47. One commenter asserted that the HSA schools do not serve the same populations as these district schools and that is why their Progress Report grades are higher.
48. One commenter asserted that space allocated to charter schools in district buildings must be allocated equitably, and that if the charter school has contiguous space, so must the district schools.
49. One commenter asked whether this proposal would consolidate HSA 2 and HSA 3 into one school.
50. One commenter asserted that the District 3 community does not like the strong-arming tactics used by HSA, including the mailing of brochures to children. The money spent by HSA on brochures could be used to buy a building.

*Comments not Directly Related to this Proposal*

51. Several commenters asked about SUNY's role in the hearing, and questioned why parents were not notified of SUNY's participation and role in the hearing.

The following questions were submitted in writing or posed verbally at the joint public hearing on March 15, 2012:

52. Why can't they move into a school in their district?
53. Why can't the Department of Education use the school building on E. 117<sup>th</sup> that is not being utilized? Why has that building been abandoned?
54. What about an empty Catholic school building? You're not getting any rent for these occupations.
55. Will HSA's presence in the school qualify it for part of the grant?
56. Is the US Department of Education aware of this proposal?

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

In total, 32 comments opposing the proposal were received via email. The comments cited the following reasons for that opposition and raised the following questions:

57. Space is available in the schools' current districts for these fifth grades.
58. District 3 is overcrowded.
59. This proposal would threaten the magnet grant by preventing growth at P.S. 285 and P.S. 208.
60. This proposal would make 150 additional students eligible for District 3 middle schools and there won't be enough seats.
61. Schools would have less access to shared spaces.
62. Success Charter Network should have to pay for its own space.
63. A new high quality middle school would be good for the district, but should be required to accept new applicants at 6<sup>th</sup> grade to meet growing district demand.
64. Why is the DOE combining these two fifth grade cohorts? Why not serve them individually in smaller spaces?
65. Jaye Bea Smalley, from the Citywide Council on Special Education, asserted that students will now have to travel across the building to receive mandated services, and that will reduce the amount of time they receive services.
66. What was SUNY's role and obligation in this hearing?
67. Charter schools do not serve all students, specifically those with special needs.

In total, one comment was received by phone:

68. The commenter asserted that he would like to attend the PEP meeting on March 21<sup>st</sup> and speak on behalf of P.S. 208 and P.S. 185.

The DOE received a letter in opposition to the proposal 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:

69. 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.
70. The councilmembers express unified opposition to the proposal. Overcrowding public schools will not lead to "success" for any child in these overburdened learning environments.
71. The schools in M185/208 face unique circumstances, which should lead to the DOE's abandonment of the proposals. P.S. 185 and P.S. 208 are participating in a Federal magnet program, and a key condition to fulfilling its grant requirements is meeting an enrollment quota. The cap on enrollment

made by the proposal falls significantly short of the quota and could result in the loss of the funding and/or additional costs for the DOE to defend keeping the schools in the program.

72. Though the councilmembers are not inherently opposed to charter schools, proposals like this one cause divides and unequal treatment of young people.

The DOE received a statement from the Youth, Education, and Libraries Committee of Community Board

7. The statement asserted the following:

73. There is space in District 4 and District 5, where HSA 2 and HSA 3's kindergarten through fourth grades are located. Those districts have lower utilization rates overall than District 3, and have several buildings that were included on the January 12<sup>th</sup> Underutilized Space Memorandum as having at least 150 excess seats. As this proposal is for a one year, temporary co-location, these buildings should be used, even if the excess space in those buildings is designated for other uses in future years.
74. This proposal would give 150 additional students from outside of District 3 access to District 3 middle schools. As it is, there will be a shortage of middle school seats in the district in 2015.
75. This proposal would threaten the magnet grant in District 3.
76. HSA increased its enrollment in earlier grades knowing that there was not capacity to handle the increase in their existing buildings.

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

#### Support for the proposal

Comments 16-28 support the proposal and do not require a response.

#### PEP Meeting Participation

Comment 68 asserts the commenter's intention to participate in the March 21<sup>st</sup> PEP meeting, at which the PEP will vote on this proposal, and does not require a response.

#### Magnet Grant

With respect to comments 4a, 5b, 8b-d, 11a, 12, 13b-c, 15b, 32, 56, 59, 71, and 75, based on information provided to the DOE by the U.S. Department of Education ("USDOE"), the DOE believes that this proposal will not impact the USDOE magnet grant. The grant was awarded to P.S. 185 and P.S. 208, and other schools in District 3, in order to increase diversity. Under this proposal, both P.S. 185 and P.S. 208 are projected to enroll one additional class section next year and can therefore grow their enrollments. Currently, P.S. 185 has 8 general education or Integrated Co-Teaching ("ICT") sections, as well as 3 pre-kindergarten sections, for a total of 11 sections, and is projected to enroll a total of 12 next year, as well one self-contained class. P.S. 208 has 8 general education or ICT sections, and is projected to enroll a total of 9 next year, as well as two self-contained classes. Both schools also already have large out-of-zone populations (approximately 50%), and will continue to enroll out-of-zone students in an effort to increase diversity through the magnet application. Further, enrollment is only one component of the magnet grant requirements. In the first two years of the grant, the schools have not met enrollment targets, but have retained the grant based on their compliance with the other requirements. Next year, the third year of the grant, it is expected that this trend will continue. The US Department of Education has been notified of the proposal and has confirmed that it would not threaten the grant

With respect to comments 44 and 55, the magnet grant will continue to support only the schools that were awarded the grant. In the M185/208 buildings, only P.S. 185 and P.S. 208 were awarded the grant. Harlem Link and P226M@P208M are not part of the grant, nor would HSA 2 and HSA 3 if this proposal is approved.

### Support for P.S. 208 and P.S. 185

Comments 3b, 4b, 36, 39, and 41 assert support for the programs, faculty, and/or administration of P.S. 208 and P.S. 185. As stated in the Educational Impact Statement, the proposed co-location is not expected to impact future student enrollment, instructional programming, staffing, or the admissions process to the schools currently co-located in the building. The DOE does not intend for this proposal to be taken as a sign of dissatisfaction with the programs or administrations of P.S. 208 or P.S. 185.

### Space

With respect to comments 1b, 3a, 5c, 6a, 7a, 7b, 7d, 8h, 10b, 13a, 13b, 14a, 14b, 15b, 29, 30, 31, 35, 42, 45, 48, 65, 69, and 70, there are currently hundreds of schools in buildings all 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. Because of co-locations, we are able to use our limited facilities efficiently while simultaneously creating additional high-quality options for New York City families. This is necessary when we have scarce facilities and a demand for more high-performing options.

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 is determined by the Principal based on enrollment, budget, and student needs; there is a standard guideline of target class size (i.e., number of students in a class section) for each grade level. At the middle school and high school levels, the Footprint assumes every classroom is programmed during every period of the school day except one lunch period. The full text of the Instructional Footprint is available at [http://schools.nyc.gov/NR/rdonlyres/8CF30F41-DE25-4C30-92DE-731949919FC3/87633/NYCDOE\\_Instructional\\_Footprint\\_Final9210TNT.pdf](http://schools.nyc.gov/NR/rdonlyres/8CF30F41-DE25-4C30-92DE-731949919FC3/87633/NYCDOE_Instructional_Footprint_Final9210TNT.pdf)

The Building Utilization Plan (“BUP”) details the number of class sections each school is expected to program each year and allocates the number of classrooms accordingly. The assignment of specific rooms and location for each in the building, including those for use in serving students with IEPs or special education needs, will be made in consultation with the Principals of each school and the Office of Space Planning if the proposal is approved. The BUP demonstrates that there is sufficient space in the building to accommodate the proposed co-location.

With respect to comments 13d, 40, and 61, the Building Utilization Plan puts forth a **proposed** shared space schedule for the co-located schools. The final shared space schedule will be decided upon by the Building Council if this proposed co-location is approved by the PEP.

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 comment 6a, the capacity for the M185/208 tandem buildings was determined by adding the target capacity provided for each building in the 2010-2011 Blue Book. The Blue Book assigns a capacity of 352 to M185 and 631 to M208, which totals 983. This is also the capacity number included for these tandem buildings in the Underutilized Space Memorandum. The numbers cited by the commenter seem to be the combined target organizational capacities of P.S. 185 and P.S. 208, but fail to

include the target organizational capacities of Harlem Link and P226M@P208M, which also contribute to the building's overall capacity of 983.

With respect to comment 6b, the Blue Book provides a description of how a building's capacity is calculated. In doing so, it explains that schools are allocated *up to* eight rooms of administrative space, which is not assigned a capacity, and then provides examples of the room functions that administrative space includes. The determination of how much administrative space a school actually receives, per the Instructional Footprint, is based on enrollment, and once a school is allocated space, it may program that space however it sees fit. For example, although the Blue Book notes that a room used for duplicating would be considered administrative space, schools may choose not to have a dedicated duplicating room.

With respect to comment 58 and 73, although there are some schools in District 3 with utilization rates above 100%, the M185/208 tandem buildings are underutilized.

#### Class Size

With respect to comment 30, this proposal is not expected to increase class size at any of the co-located schools. The schools are all projected to serve at least the same number of classes they currently serve, and P.S. 185 and P.S. 208 are each projected to add one class section. No classes will be consolidated as a result of this proposal.

#### Other Available Buildings

With respect to comments 7c, 8e, and 8f, neither M030 nor M101, where HSA 2 and HSA 3 currently house their kindergarten through fourth grades, have space for the fifth grades. Based on the audited register as of October 31, 2011 and building capacity as provided in the 2010-2011 Blue Book, those buildings are 101% and 113% utilized, respectively, and do not have sufficient classrooms to meet the baseline Footprint allocations of additional grades. The other buildings with space in those districts do not have enough excess rooms to serve these combined fifth grades. Serving each fifth grade separately would be inefficient and would not provide as strong an educational experience for the students. Serving the fifth grades of the two schools together is more efficient, both with regard to space and instructional programming.

With respect to comments 34, 52, 57, and 73, the buildings in Districts 4 and 5 that were included on the Underutilized Space Memorandum did not have sufficient excess rooms according the Instructional Footprint, or were otherwise less suitable than M185/208 for this proposed co-location. The specific reason each building was not suited for this co-location is detailed below.

#### District 4

M117—Esperanza Preparatory Academy is expanding to serve high school grades in this building.

M045—Leadership Village Academy is expanding to serve elementary grades in this building.

M050—There are not enough rooms to accommodate HSA 2 and HSA 3's fifth grades. The New York City Center for Autism Charter School is co-located in this building. This charter school serves students with autism in very small classes as required by their IEPs, which contributes to the low utilization rate. Despite this utilization rate, there are insufficient excess classrooms to accommodate HSA 2 and HSA 3's fifth grades.

M146—The DOE is currently evaluating the potential siting of additional District 75 seats in this building. Very often, a District 75 school houses several programs spread across multiple buildings. In this case, one District 4 program of the District 75 school which houses another program in the M146 building, is re-locating to District 2. As a result of the move, this District 75

school may be required to serve additional sections in M146 as of next year. If that were to be the case, there would not be sufficient space per footprint for HSA 2 and 3's 5<sup>th</sup> grades.  
M155—The relocation of 04M377 to this building will utilize the excess space.

#### District 5

M030—This is the current site of HSA 2. As described above, based on the audited register as of October 31, 2011 and building capacity as provided in the 2010-2011 Blue Book, this building has a utilization rate of 101%, which is not reflected in the 2010-2011 Blue Book. HSA 2's enrollment was incorrect in the Blue Book and was higher than indicated, and HSA 2 has grown to include fourth grade in 2011-2012, which is not reflected in the Blue Book.

M043 (M172)—The Office of Space Planning assesses the space in a given building. Per OSP's assessment, this campus is not an appropriate site. It underwent master planning and is designed to accommodate a specific number of organizations.

M046—This building does not have enough excess rooms to accommodate this co-location.

M133— This building does not have enough excess rooms to accommodate this co-location, even with Teachers College Community School being re-sited. Additionally, a new program being sited there (ASD Horizon) will use excess space.

M200/M010 (tandem)—While there is some space in these tandem buildings, they are geographically less accessible than M185/208 from the current HSA 2 and HSA 3 sites. In fact, M185/208 and M101, where HSA 3's kindergarten through fourth grades are served, are located on the same street.

M501—The excess space in this building is being used for the temporary co-location of Promise Academy I's fourth grade and the temporary grade expansion of Promise Academy II.

With respect to comments 2b, 33, 50, 54, and 62, 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.

With respect to comment 53, the DOE no longer owns this building and therefore it is not a viable option for HSA 2 and HSA 3's fifth grades.

#### Middle School Seats

With respect to comment 15c, 60, 63, and 74 although it is true that these students would be eligible for District 3 middle schools, HSA 2 and 3 are growing to be K-8 schools (pending approval by HSA's authorizer), and the DOE does not anticipate that students will leave HSA 2 or 3 for middle school. Data from HSA 1, which is operated by the same Charter Management Organization and serves kindergarten through 6<sup>th</sup> grade in District 3, has demonstrated an extremely high retention rate, with no students leaving after 5<sup>th</sup> grade to attend District 3 middle schools. While the DOE does not believe that District 3 will experience a shortage in middle school seats in the next few years, the DOE has sought to add capacity at existing schools by adding classes where there is sufficient space and demand. The DOE is also beginning conversations with the community around plans for two buildings that will become available within the next few years due to new construction and the re-siting of an existing school, which could include new middle school seats to help meet future demand.

#### Long-Term Plan for HSA 2 and HSA 3

With respect to comment 38, the DOE is exploring all possible long-term sites for these schools. Any future siting of these grades, whether in M185/208 or any other building, would be proposed in a new EIS.

### HSA Enrollment

With respect to comment 76, HSA 2 and HSA 3 enroll students in accordance with the enrollment plans outlined in their charters, with adjustments based on limitations of building capacities as needed. HSA 2 and 3 in buildings M030 and M101 respectively were only intended to serve kindergarten through fourth grades, and were not expected to accommodate the schools' fifth grades.

### SUNY

With respect to comment 51 and 66, notices from SUNY regarding their role in the hearing were emailed to the principals of each school co-located in the M185/208 building to be sent home on February 27<sup>th</sup>, 2012. In addition, SUNY posts the hearing notices on its website and sends a copy to the affected CEC(s). SUNY has an obligation under Education Law 2853(3)(a) to "hold a public hearing for purposes of discussing the location of the charter school" any time a SUNY authorized school wants to occupy "part of an existing public school building." This is separate from the DOE's obligation to hold a joint public hearing, although sometimes these hearings are held at the same time.

### New York State English Language Arts and Math Assessments

With respect to comment 43, the New York State Education Department ("NYSED") is responsible for the monitoring and auditing of district and charter schools' administration of the State English Language Arts and Math exams. NYSED recently announced new policies and procedures to improve the oversight of testing and ensure the tests' integrity. Many students are entitled to testing accommodations, such as extra time, based on individual special needs.

### Filming

With regard to comment 1a, in response to Senator Perkins' request, the DOE identified an alternative space for the videographer that allowed him to continue filming as is his right, but from a less visible location.

### Choice and Charter Schools

With respect to comments 1c, 8g, 9b, 41, 44, 46, 47, 67, and 72 charter schools are public schools intended to provide additional educational options to families, and are prohibited from charging tuition. 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 having their renewal applications rejected.

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

With respect to comment 50, charter schools often launch targeted community outreach and student recruitment efforts designed to attract families to apply and enroll in the schools. All materials are available in English and Spanish including: FAQ, applications, and flyers promoting orientation sessions and school opening.

### Community Engagement

With respect to comments 2a, 5a, 8a, 10a and 14c, the DOE reached out to all building principals prior to the posting of this proposal and offered to meet individually or with the Building Council. Representatives from the DOE's Office of Portfolio Management and Office of Space Planning met with the principals of P.S. 185 and P.S. 208 and received input which informed the BUP. Following the

posting of the proposal, the principal of Harlem Link provided further input which resulted in an amendment to the BUP. Representatives from the Office of Portfolio Management also attended two public meetings held by the CEC to respond to questions on this proposal and other items.

The DOE appreciates all feedback from the community regarding a proposal. When the Educational Impact Statement and Building Utilization Plan are issued, they are made available to the staff, faculty and parents at the impacted schools on the DOE's Web site, and in each school's respective main office. In addition, the DOE dedicates a proposal-specific website and voicemail to collect feedback on this proposal. Furthermore, all schools' staff, faculty and parent communities are invited to the Joint Public Hearing to solicit further feedback.

With respect to comments 15a and 37, although the DOE recognizes that some people in the community may have strong feelings against this proposal, the DOE believes that, if this proposal is approved, the school communities at M185/208 will be able to create productive and collaborative partnerships and maintain a mutually respectful environment for all students, staff, and faculty members in M185/208. This proposal is not intended to pit the schools in the M185/208 buildings against each other.

#### DOE Supports to Schools

With respect to comments 2c, 9a, and 13f, all schools receive support and assistance from their superintendent and [Children First Network](#), a team that delivers operational and instructional support directly to schools. This proposed co-location is not expected to have any impact on the supports provided to the schools in the M185/208 buildings. Further, P.S. 185 and P.S. 208 have received support and resources above and beyond what most schools receive through the magnet grant, which will not be impacted by this proposal.

#### Use of Numerical Figures

With respect to comment 13e, numerical measures are an important element in creating proposals like this one. However, this proposal is not based solely on the use of numbers. Instead, as seen in the EIS, the DOE has extensively described the impact of the proposal in multiple non-numeric terms. The DOE seeks to provide high-quality education to all students in the City, and this proposal is intended to contribute to that goal.

#### Consolidation of HSA 2 and 3

With respect to comment 49, HSA 2 and HSA 3's fifth grades will continue to operate under their current, separate DBNs, even though they will be served together. This is a common practice among charter schools. For example, the KIPP middle schools all feed into one larger KIPP high school, which is run by one administration, but students remain enrolled at multiple DBNs.

With respect to comment 64, serving the 5<sup>th</sup> grades of the two schools together is more efficient, both with regard to space and instructional programming. The schools can provide a fuller educational experience for the students by serving them collectively and achieving greater economies of scale, rather than serving very small cohorts independently. In particular, this eliminates the need for duplicative administrative staff (and thereby administrative space), and allows the schools to provide more diverse educational programming.

#### **IV. Changes Made to the Proposal**

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