



## **Public Comment Analysis**

Date: March 20, 2012

Topic: The Proposed Opening and Co-location of Manhattan Charter School II (84MTBD) with Existing Schools Henry Street School for International Studies (01M292), University Neighborhood Middle School (01M332), and Collaborative Academy of Science, Technology, and Language Arts Education (01M345) in Building M056 Beginning in 2012-2013

Date of Panel Vote: March 21, 2012

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## **Summary of Proposal**

The New York City Department of Education (“DOE”) has published an Educational Impact Statement (“EIS”) proposing to open and site a new public charter school, Manhattan Charter School II (84MTBD, “MCS II”), in Building M056 (“M056”), located at 220 Henry Street, New York, NY 10002, in Community School District 1 beginning in 2012-2013. MCS II would be co-located in M056 with Henry Street School for International Studies (01M292, “Henry Street”), an existing district secondary school that serves students in grades six through twelve; University Neighborhood Middle School (01M332, “UNMS”), an existing district middle school that serves students in grades six through eight; and Collaborative Academy of Science, Technology, & Language-Arts Education (01M345, “CASTLE”), an existing district middle school that serves students in grades six through eight. 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.

Henry Street, UNMS, and CASTLE admit students in sixth grade through the District 1 Middle School Choice Process. For its high school grades, Henry Street admits students in ninth grade through the Citywide High School Admissions Process. Additional information about the District 1 Middle School Choice Process and the Citywide High School Admissions Process is described in further detail in the EIS.

MCS II will be a new public charter school that will serve students in kindergarten through fifth grade at full-scale. The charter for this school was authorized by the State University of New York (“SUNY”) Charter Schools Institute in June 2011. If this proposal is approved, MCS II would begin serving 80-100 students in kindergarten through first grade in the M056 building in the 2012-2013 school. MCS II would expand to serve a new grade of students each year until 2016-2017, when it would reach full scale and serve approximately 240-300 students in kindergarten through fifth grade.

M056 has a target capacity of 1,445 students.<sup>1</sup> Currently, the building serves approximately 775 students,<sup>2</sup> yielding a utilization rate of just 54%, which means the building is under-utilized. If this proposal is approved, MCS II would be co-located with Henry Street, UNMS, and CASTLE. Once MCS II has completed its expansion, there will be approximately 940-1,130 students served in the building by Henry Street, UNMS, CASTLE, and MCS II, yielding a building utilization rate of 65-78%. (The concepts of “capacity” and “utilization rate” are described in the EIS). In addition, as discussed in section III.B. of the EIS and in the Building Utilization Plan (“BUP”), the building has sufficient space to provide all three schools with at least their baseline room allocations. Therefore, the building has the capacity to accommodate MCS II and all existing schools when fully phased in.

Also, M056 houses the New York City Center for Space Science Education (NYCCSSE), which is part of the DOE’s Mathematics and Science Department in Teaching and Learning. The proposal is not expected to impact NYCCSSE.

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 the EIS are also available in UNMS’s, CASTLE’s, and Henry Street’s main offices.

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

A joint public hearing regarding this proposal was held at building M056 on March 8, 2012. Approximately 158 members of the public attended the hearing, and 43 people spoke. Present at the meeting were Community School District 1 Superintendent Daniella Phillips; Manhattan High Schools Superintendent Tameka Matheson; District 1 Community Education Council (“CEC 1”) President Lisa Donlan; CEC 1 Second Vice President Cynthia Bonano; CEC 1 Representatives Daniel Becker, Arnette Scott, and Doug Stern; UNMS Principal Laura Castro Peynado; UNMS School Leadership Team (“SLT”) Representative Rachel Grater; CASTLE Principal Judith De Los Santos; CASTLE SLT Representative Julia Delk; Henry Street Principal Erin McMahan; Henry Street SLT Representatives Sadiqa Wahhaj and Michael Tarasovic; Citywide Council for High Schools (“CCHS”) Representative Stanley Ng; State University of New York Charter Schools Institute (“SUNY CSI”) Representative Maureen Murphy; Iris Quinones, a representative of United States Representative Nydia Velázquez; Paul Goldstein and Monica Guardiola, representatives of New York State Assembly Speaker Sheldon Silver; Yume Kitasei, a representative of New York City Councilmember Margaret Chin; and Rosemarie Diaz, a representative of New York State Senator Daniel Squadron.

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

1. *Lisa Donlan, CEC 1 president, asserted that:*
  - a. Based on District 1’s long history of co-location, the community knows what works and does not work in a co-location, and the proposal being considered

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<sup>1</sup> 2010-2011 Enrollment, Capacity, Utilization Report (the “Blue Book”).

<sup>2</sup> 2011-2012 Audited Register.

would not work, which is why CEC 1 opposes the proposal. The proposal does not meet any of the criteria for planning a co-location that contributes to a form of choice that is fairly and equitably managed.

- b. Such criteria include providing equal access to all children, including those with high needs, creating diverse learning communities.
  - c. The criteria also include siting the new school in a location with sufficient space for all co-located schools' needs, so all the schools can function and thrive.
  - d. Additionally, the criteria include dividing space in a way that does not favor one school over another or negatively impact the enrollment or class-size of a co-located school or its ability to serve its students through related services, supports, interventions, or enrichment.
  - e. Charter schools, like the one in this proposal, that do not serve a proportionate number of high-needs students force other schools to do more with less. The school MCS II is to be modeled after, Manhattan Charter School ("MCS I"), serves zero English language learning ("ELL") students, and its IEP population is only 14%, which must be composed of students requiring the least restrictive environments, since the school also does not offer self-contained, CTT or ICT classes. This begs the question of whether MCS I, and MCS II after it, is in violation of the charter law, which demands that charters serve a proportionate number of highest needs students, ELL students, students with disabilities, and students living in poverty.
2. *Doug Stern, CEC 1 representative, asserted that:*
    - a. The CEC believes there is not enough demand in District 1 for a new elementary charter school.
    - b. He asked how many of the current kindergarten seats at MCS I are filled by siblings of current students and how many are filled by District 1 students, and whether the DOE or SUNY CSI can certify that there are no out-of-district students enrolled in the kindergarten through second grade of MCS I.
  3. *Annette Scott, CEC 1 Representative, asserted that:*
    - a. The DOE should report waitlist and acceptance rates for current pre-kindergarten and kindergarten admissions in District 1 so a baseline demand comparison can be created to inform proposals like this one.
    - b. She asked, though lengthy waitlists are not unusual in lower Manhattan, can the DOE or SUNY CSI certify that the waitlist at MCS I consists of real potential students who all live in District 1.
  4. *Julia Delk, CASTLE SLT representative, asserted that:*
    - a. Building M056 already has one high school and three middle schools in the building, and the DOE is following a formula to determine the minimum mandated number of minutes classrooms are occupied in order to say that the building is under-utilized.
    - b. CASTLE in particular already has a limited amount of space, and it is using all of that space to provide an excellent equitable education to a diverse range of students. That range of students includes a high percentage of students with Individualized Education Programs ("IEPs"), which along with all the other needs of students requires a significant amount of space for small group remediation.

Without proper space, students will be in larger groups with less individual attention, limiting their access to the education they deserve.

- c. CASTLE needs the space it has to meet its students' needs in order to equip them to be competitive with peers in more affluent and spacious schools.
  - d. Without the proper space for students who are supposed to receive accommodations during state tests, the school would be breaking the law. CASTLE needs 21 full- or half-size rooms in which to administer tests to all students. By 2015, according to the BUP, CASTLE would only have 15 full- or half-size rooms, which would be unjust.
  - e. The proposal's rationale is to give families more choice for elementary school, though there are already 20 elementary schools in District 1. There are only 11 middle schools in District 1, and this proposal would cripple about 30% of them, leaving future District 1 middle schools students with options that are physically unequipped to give them the education they deserve.
5. *Rachel Grater, UNMS SLT representative, asserted that:*
- a. UNMS currently uses approximately half of a hallway, where it has built a thriving educational community. It is insulting that the DOE has not invited leaders from the existing schools to the table with MCS I, to be a part of the planning process. The proposal should be amended to reflect the valid concerns and critical feedback of this community.
  - b. UNMS's current instructional program could not be maintained under the current proposal, which is committed to developing innovative teaching methods and educational designs, with the sole purpose of increasing the learning opportunities of all students, particularly those who are at-risk.
  - c. If the BUP expects the school to serve six sections of general education ("GE") or integrated co-teaching ("ICT") students and two sections of self-contained ("SC"), then the programming model at UNMS would require 144 60-minute periods each week just to serve its GE students in humanities, math, and science. SC students travel between rooms, and so add another 48 periods. On top of that, the programming includes Spanish, art, book clubs, and programming for SETTS and ELL students. This additional programming brings the total of instructional periods per week to 263. If classrooms can only be scheduled for use five out of six periods per day, then the UNMS programming would require a minimum of 11 full-size rooms for that 263 periods. Even if SC students were confined to a half-size room for the entire day, the total periods per week would drop to 215, which would still require nine full-size rooms at minimum. Yet, the proposal only provides for UNMS to have eight full-size rooms, which is not enough. For this reason, it is incorrect for the EIS to state that the proposal is not expected to impact the instructional programming at UNMS.
  - d. The proposal does not account for the space necessary for crisis intervention administered through the "UNMS cares" team. The UNMS population is made up of 25% of students at UNMS are required to have counseling, 44% are over-age, 16% live in temporary housing or a shelter, and close to 40% have IEPs that require some sort of intervention.
  - e. The proposal does not account for the space necessary to meet the needs of ELL students. The UNMS population is made up of 20% ELL students, and 26% of

those students have interrupted formal education and 33.6% have IEPs. The proposal would strip the space these students are entitled to have in order to allow the maximum amount of learning opportunities.

- f. In order to accommodate a total of 300 students at MCS II, the DOE has capped UNMS at 135 students.
  - g. UNMS services all students that apply and are matched to the school; it is not self-selective. Though District 1 has a 12% population of ELL students, compared to 14% Citywide, and 25% students with IEPs, compared to 15% Citywide, MCS I has 0 ELL students and only 14.4% population of students with IEPs, after five years of operation. MCS I is supposed to be held accountable for serving a diverse range of students that are representative of the Lower East Side. Though documents submitted to SUNY by the founders of MCS II indicate that the school will make efforts to recruit and retain special education and ELL students, the BUP for the proposal demonstrates otherwise in its projection that MCS II will serve zero SC classes. A representative at the MCS I office informed the commenter that if a child requires a smaller class size setting, neither MCS I nor MCS II would be able to educate that child. UNMS serves these students without having to recruit them.
6. *Sadiqa Wahhaj, Henry Street SLT representative, asserted that:*
- a. The building already houses three schools, including the upper and lower schools of Henry Street.
  - b. Through meetings with the DOE leading up to the hearing, it has become clear that the DOE uses a bottom-line formula in determining exactly how many students, teachers and staff should occupy a building for maximum efficiency, keeping cost as low as possible and maximizing benefits. Yet, the only benefit of the proposal that the DOE has put forth is that it will provide another elementary school in a district that already has 20 elementary schools, and the cost the existing schools a large amount of space that is already very limited.
  - c. Keeping Henry Street's middle and high school students on separate floors will no longer be feasible. Small middle school children will then have to navigate the same slim hallway as large high school children, 425 students in the same hallway.
  - d. The DOE's blueprint is based on the notion that classrooms should always be occupied, and when they are not serving students, they are not occupied. Yet, teachers are limited in their ability to truly engage students academically and emotionally if they have access to classrooms only during classes. They need the space for setting up materials and private conversations with students. This is especially needed when the class is composed of students with widely different ability levels and backgrounds. Display space on walls for instructional material and student work would also be limited.
  - e. The gymnasium is already used at full capacity and scheduling the time is very complex in order to fulfill all students' physical education requirements, thus jeopardizing their graduation. The DOE's suggestion that students travel to an athletic facility several blocks away is impractical and will create more problems than it will solve. Additionally, the DOE's suggestion that MCS II will offer

physical education in its classrooms for the first year does not solve the problem either, and it shifts the inequity from one group of students to another.

7. *Paul Goldstein, a representative of NYS Assembly Speaker Silver, asserted that:*
  - a. After hearing from community members, the speaker has joined other elected officials in opposing the proposal, asking that the chancellor reconsider. The building already has enough schools in a confined space, and the schools serve a lot of high-needs students. The DOE should instead strengthen and support the existing schools. Taking away classrooms from these existing schools would be to those schools' detriment.
  - b. Shared spaces, including the gymnasium, auditorium, cafeteria, special science rooms, and art rooms should not be burdened by another school. Additionally, the bathrooms and single entrance to the building raise the issue of young children sharing those facilities with much older students, which is not a good mix.
8. *Iris Quinones, a representative of Representative Velázquez, asserted that:*
  - a. The congresswoman opposes the proposal and urges the DOE to work with the community to find an alternative solution. The DOE should not cut back on public schools for the sake of charters when the public schools can improve and grow.
  - b. The proposal constitutes the DOE turning its back on the community and inspiring distrust and resentment toward an institution whose duty it is to protect and enhance the fundamental right of education. The proposal would diminish the quality of school life and students by cutting back on physical education and lunch space.
  - c. Though the DOE says the building is underutilized, the community members who are in the building every day state otherwise.
  - d. The community of existing schools deserves adequate resources and to be involved in decision-making that impacts their education, just like anyone else in the U.S.
9. *Yumei Kitase, a representative of Councilmember Chin, asserted that:*
  - a. The councilmember, along with other elected officials, opposes the proposal. The councilmember has gone to lengths to help the proposed school find private space and found several options, but none worked out. Though the councilmember supports all students in the district, she was disappointed to see on the MCS II charter application that they were seeking public space, after all the work done to find private space.
  - b. The proposal does not make clear what will happen to the use of shared space after the first year of the co-location. It asserts that when MCS II needs more gym space, a facility ten-minutes away can be used—though it is not clear which school will have to do this.
  - c. Also it is not clear that MCS II, which would be the second-largest school in the building at full-scale, can actually fit in the building when it is that size, and the numbers show that this proposal may in fact come at the expense of one of the other schools. The DOE should show workable math that demonstrates how the proposal would work when all schools are still at their full capacity, keeping the existing schools at their current size.

- d. The DOE also should show how the schools' abilities to serve their ELL and high-needs student populations will be impacted by the proposal, as classroom space becomes more constricted.
  - e. Given that the schools already work so hard to keep the middle and high school students separated within the building, having an elementary school also will make it more complicated, which is concerning.
  - f. It does not make sense to site an elementary building in a school, taking space away from high-needs middle and high schools, when there are still elementary schools in the district that are not full and have empty seats.
10. *Erin McMahon, Henry Street principal, asserted that:*
- a. Principal McMahon orchestrated an illustration of how the proposal would squeeze students into the fourth floor, where the high school is located, by having people at the hearing standing up in the front of the room and gradually pushing them into a smaller amount of space, while adding more people, the middle school students, at the same time. She asked everyone if they felt crowded, which they did. She also said that she was sorry to those who felt claustrophobic and that she does not want them to drop out of school because they are important to her, and if they have special needs she will try her best to fit them in. In the end, she said, there would be seven grades in one hallway, six through twelve, and if people feel crowded, then she is sorry that she did not do her job.
11. *Stanley Ng, CCHS representative, asserted that:*
- a. Lower Manhattan is in need of the ability to expand its capacity for high school students, especially special education students, which would be inhibited in M056 by the proposal.
  - b. DOE policy and practice discriminates against Chinese families, which is proved by the Chinese translation of the parent letter for the hearing, which has the wrong address on it. He stated that the hearing should be halted and re-done from the beginning because Chinese parents have been discriminated against.
12. *Laura Peynado, UNMS principal, asserted that:*
- a. There is a political agenda with educational reform in favor of charter schools, which she is not opposed to. However, she is opposed to losing classrooms at the expense of students, especially those with special needs or who are ELL students.
13. *Judith De Los Santos, CASTLE principal, asserted:*
- a. The schools in M056 are courageous schools that embrace all students and work hard to education all children, having built a culture of high expectations. The students served in the building come from high-needs backgrounds. The proposal would mean the loss of classrooms that support instructional programming focused on small group instruction. Class size would be increased and children's constitutional rights to a sound and adequate education would be undermined.
  - b. The students in M056 deserve the opportunities that students in other schools receive.
  - c. The proposal is wrongheaded because it attempts to fill every available inch of space without regard for how it increases class size or prevents schools from reducing class size in the future.
  - d. The damaging effects of the proposal are not reflected in the EIS.

*Oral comments made at the joint public hearing*

14. Multiple commenters asserted that the proposal reduces students to numbers or pieces of meat. The DOE is ignoring the humanity of the people impacted by the proposal. Education does not work when only numbers are considered.
15. Multiple commenters asserted that the proposal will reduce the amount of space available to existing schools, which are great schools, which will inhibit the ability of those schools to meet their students' needs. The schools already have a limited amount of space for all the extra services, or simply meaningful conversations, they need to provide to their students. Such services include SETTS, ICT, math clinics, ELA clinics, Wilson Reading Program, ELL program, counseling, Deans' offices, adaptive physical education, occupational therapy, speech therapy, crisis support and intervention, meetings with ACS workers, and other legally required related services for the large proportions of students with IEPs. The rooms used for all these services cannot be shared with other types of services.
16. A commenter asserted that MCS II should be placed in private space, instead of crowding out public school children.
17. A commenter asserted that the students in the existing schools already have enough problems, like homelessness and lack of food or clothing, which would be exacerbated by the proposal.
18. A commenter asserted that the proposal would take away the ability of the current schools to innovate.
19. A commenter asserted that space in the gym is already greatly limited, and adding elementary students to the building would be unworkable.
20. Multiple commenters asserted that the proposal would inhibit the enrollment growth of the existing schools.
21. A commenter asserted that making the building overcrowded would negatively impact the morale of students and teachers.
22. Multiple commenters asserted that the proposal would result in teachers needing to share classrooms and transport all of their materials on carts from room to room, which would reduce the quality of education those teachers provide.
23. Multiple commenters asserted that the BUP should not be based solely on the number of students enrolled in the schools but on the needs of the students who have mandated services. For example, MCS II should not receive as much proportional space as the other schools because it is not projected to serve any self-contained classes.
24. A commenter asserted that the proposal is problematic because it is for a charter school, and charter schools are puffed up in the media and have a movement and powerful people backing them.
25. Multiple commenters asserted that there should not be elementary students in the building with middle and high school students. In fact, the elementary students who visit the space center who already come into contact with some of the middle school students have shown that little kids can be intimidated by older kids.
26. A commenter asserted that in *Brown vs. Board of Education* the court says that a sense of inferiority affects the motivation of children to learn, and the proposal may cause that feeling of inferiority among the students at existing schools. Such a situation would make everyone's job harder.

27. A commenter asserted that instead of opening a new school, the existing schools in the building should be supported.
28. Multiple commenters asserted that the proposal is misguided because those who have made the proposal do not know what it is like inside the classrooms in the building with the students.
29. A commenter asserted that MCS II is not the enemy of the M056 community because MCS I has many things in common with them, including a commitment to serve the community. MCS I has been successful with innovative education, and it serves a large proportion of high-needs students. Additionally, MCS I gives preference to District 1 students, and the only out-of-district students who have enrolled in the school over the past two years are those with siblings already attending MCS I.
30. Multiple commenters asserted that MCS I, after which MCS II will be modeled, does not serve self-contained students or ELL students.
31. Multiple commenters asserted that required testing accommodations for ELL students and students with special needs could not be met if any of the space allocated to the existing schools is taken away.
32. A commenter asserted that teachers would not be able to open their classrooms to students during lunch time if all classrooms are expected to be utilized at all times during the school day.
33. A commenter asserted that the schools in M056 provide unique choices to families in District 1 that will be diminished by the proposal.
34. A commenter asserted that the district is in need of an excellent public elementary school like the existing MCS I.
35. A commenter asserted that elementary students walk on the streets among middle and high school students, and they do not have any problems then. Thus, there will not be any problems with elementary students in M056.
36. A commenter asserted that if the space in M056 is underutilized, then the schools in the building should allow another school to come in.
37. A commenter asserted that, as a charter school leader, a parent of a student in M056, and a husband to a staff member in the building, his charter school has been in business for over ten years and never has looked to co-locate with a public school. The DOE and SUNY, while inundated with charter applications, needs to realize they are making a bad decision.
38. A commenter asserted that the DOE should maintain UNMS as it currently is, with the same classroom space and time in shared spaces, instead of implementing the proposal.
39. A commenter asserted that, from a student's perspective, it is hard to concentrate when the class is overcrowded.

The following questions were submitted in writing at the joint public hearing on March 8, 2011.

40. How will students in the existing schools receive their mandated services if space is taken from the existing schools?
41. How will mandated testing accommodations be possible with the proposal?
42. Which students would be asked to go off site for physical education instruction?

43. How can the DOE afford to put five schools in one building but not afford textbooks for students already in the building?

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

Prior to the public comment period, three comments were received (via phone or mail) with regard to the then-potential proposal. Though these comments fall outside the official public comment period, the DOE has, nonetheless, included and responded to them in this document.

44. One commenter asked why the DOE has proposed to place an elementary school in a building that already has three middle schools and a high school in it.
45. One commenter made multiple points:
- a. The commenter asserted that the proposal exemplifies the history of the packing in and crowding of services for the most vulnerable populations.
  - b. The commenter asked, under the proposal, what happens to the main office, gym, bathrooms, auditoriums, classrooms, play yards, dismissal times, exits, fire drills, parents waiting to pick up the little kids, lunch and breakfast rooms, guidance counselors, school aides, parent coordinators, security, school functions, school buses, and so on?
  - c. The commenter suggested that there is a vacant school building at 341-349 Madison Street, which used to be a school and is now empty, and there is an empty firehouse at 269 Henry Street that perhaps could be renovated for the charter school.
  - d. The commenter said the needs of the four existing schools in M056 should be taken into consideration, and an elementary school should not be added to a building that already has middle and high school students.
46. One commenter asked what other alternatives or actions has DOE taken to locate facilities other than M056 for MCS II? The commenter asserted that he has three or four alternative suggestions, and his concern over the co-location of MCS II in M056 is about safety, among other things. He asked what the details are of other schools and places considered for siting MCS II.

The DOE received a letter in opposition to the proposal, signed by numerous elected officials, including: U.S. Representative Carolyn B. Maloney, New York State Assembly Speaker Sheldon Silver, New York City Councilmember Margaret S. Chin, U.S. Representative Nydia M. Velázquez, New York State Senator Daniel Squadron, and New York City Councilmember Rosie Mendez.

47. The letter asserted that:
- a. Space in M056 is already at a premium. The building is already home to three middle schools and a high school.
  - b. Schools rely heavily on open space for self-contained classes for special needs and ELL students. The proposal would have a disproportionately negative impact on the high needs of these students.
  - c. MCS I does not provide SC classes, and MCS II would not be able to provide SC classes in M056, due to space constraints.

- d. The gymnasium in M056 is already over capacity, and any further additional programming would be detrimental to current students. In later years, a school will have to serve gym off-site, though the plan does not specify which school will have to do so.
- e. Current schools already share science rooms, music rooms, the yard, and gym—adding another school will make it that much more difficult to share.
- f. The BUP assumes falling enrollment at the schools and potentially the eventual phase-out of one school. The DOE should instead help to boost enrollment and help existing schools succeed.
- g. Co-locating elementary students with middle and high school students is not appropriate and will disrupt current efforts to keep high school and middle school students separated in existing schools. The single shared entrance to the building would physically mix students with vast age differences. There are no plans currently to adapt bathrooms to be age-appropriate for young students.
- h. High school students may not want to share space with young children; the principals in M056 have worked hard to establish the feeling of a “real” high school, which would be undermined by having younger students in the same hallways.

The DOE received a copy of a letter to the New York State Education Department Commissioner John King from Councilmember Chin written to bring a complaint against MCS II for a violation of the Charter Schools Act.

48. The letter asserted that there are significant issues with the charter school’s original application for the charter and with the public hearing held by the DOE on the proposal for the following reasons:

- a. On its application for authorization by SUNY CSI, MCS II failed to provide evidence of meaningful opportunity of community members to provide input into the design of the proposal for the school’s authorization. None of the materials distributed to publicize the authorization proposal mention their intention to co-locate nor were any of the materials distributed in any language other than English.
- b. MCS II did not communicate to the community that they were seeking public school space. In their authorization proposal, they referenced a viable plan for location in private space, in the event that public space is not available. They also had stated a preference for private space to Councilmember Chin’s office and the offices of other elected officials. Opposition to the proposal for authorization would have been more obvious if MCS II had more clearly disclosed their preference for public school space.
- c. MCS II’s authorization hearing on February 17, 2011 was not significantly publicized.
- d. The stated student demand for MCS II that the school has claimed is not unusual in lower Manhattan and is not a reliable indicator of actual demand without a truly comparable baseline of demand for other schools in District 1. Additionally, the underenrollment of elementary schools in District one is a problem threatening to endanger the existence of those schools, and opening another elementary school would potentially exacerbate that problem.

- e. MCS I, after which MCS II will be modeled, does not serve a sufficiently high population of ELL students or students with high special needs.
- f. The letter expresses strong disapproval of how the “March 15, 2012” public hearing on the proposed co-location of MCS II was managed by the DOE. The DOE notified families who speak Chinese as their first language that the hearing would be located at 220 Adams Street (which is in Brooklyn). As a result, there were very few families of Chinese descent in attendance at the hearing, even though they comprise a significant number of families at M056. Additionally, translators hired by the DOE for the hearing were an hour late and there were not enough simultaneous translation headsets available for all non-English speaking parents in the audience.
- g. The DOE should make available data on why enrollment numbers for high schools and middle schools in M056 has been diminished over the years prior to this co-location, given that the DOE controls enrollment numbers.
- h. Though M056 may be considered under-utilized by the DOE, MCS II is a problematic choice for the space.

During the public comment period, in total, 9 comments were received (via email or phone) opposing the proposal. The comments cited the following reasons for that opposition:

- 49. One commenter expressed opposition to the proposal because it would affect her child in many ways, for example by increasing class size. Additionally, her child has a good GPA at CASTLE, and she does not want anything to change at the school that could endanger that. The way the school is set up works well, and it should be kept that way.
- 50. One commenter asked what the typical demographics are of schools that are impacted by co-location proposals. The commenter asked whether the schools impacted by co-location proposals are typically in dominantly Hispanic and African-American neighborhoods. The commenter asserted that the proposal has discriminatory overtones in a potentially illegal way.
- 51. Multiple commenters asserted the building is already over-utilized and the proposal would negatively impact students at existing schools, especially the high needs populations, which would not be served in MCS II.
- 52. One commenter asserted that elementary students should not be co-located with middle and high school students.
- 53. One commenter asserted other buildings should be renovated in order to site MCS II, so that community members will not continue to be pushed out of their own space.
- 54. One commenter asserted that small group instruction and other strategies that meet individual student need would be inhibited at existing schools as a result of the proposal.
- 55. One commenter asserted that shared spaces in M056 are not able to accommodate another school organization.
- 56. One commenter asserted that co-location only takes place in communities predominantly composed of ethnic minorities.

The DOE received a copy of a resolution passed by CEC opposing the proposal.

- 57. The resolution asserted to following:
  - a. The proposal is for a charter school, approved by SUNY CSI, that replicates MCS I, which has been open for six years in the Lower East Side. Despite being in

operation for the past six years, MCS I does not serve a single ELL student. However, 13% of the students in the school that MCS I is co-located with are ELL students, and 12% of District 1 students are ELL students. Additionally, the outreach materials for MCS II have only been in English.

- b. The Chinese version of the DOE's public notice of the joint public hearing on March 8, 2012 on the proposal provided the wrong address, including the wrong borough.
- c. The Spanish translator provided by the DOE for the joint public hearing on March 8, 2012 arrived more than an hour after the hearing started.
- d. There were an insufficient number of translation devices available at the hearing on March 8, 2012.
- e. MCS II repeatedly stated publicly and to local elected officials that it was looking for private space in which to locate instead of a public school, even though its proposed budget did not contain a line item for building rent or lease.
- f. CEC 1 resolves that the PEP should either vote against the replication of MCS I until MCS I serves the same percentage of ELL students as other District 1 schools or postpone the vote on the proposal for not less than 12 months until evidence can be provided that MCS I serves the same percentage of ELL students as other District 1 schools and that MCS II has dramatically enhanced its outreach to non-English speaking families.

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

##### **Footprint/Building Utilization**

- Comments 1c, 4a, 4b, 5c, 6b, 7a, 8c, 10a, 15, 38, 45a, 47a, 51, and 55 assert that there is not enough space in M056 for the implementation of the proposal.

Building M056 has been identified by the Division of Portfolio Planning in its "Under-utilized Space Memorandum" as having over 300 seats available. Though there are three schools currently in the building, CASTLE, UNMS, and Henry Street, in addition to the space education center, the building's current utilization rate is only 54%. This ranks M056 as the most under-utilized building in District 1. Even if the co-location is approved, the building's utilization rate would reach only 65-78%, once MCS II grows to full-scale. Therefore, the building has the capacity to accommodate MCS II and all existing schools when fully phased in.

Additionally, as explained in the EIS and BUP, there will be sufficient space to accommodate MCS II, Henry Street, UNMS, and CASTLE, pursuant to the Citywide Instructional Footprint (the "Footprint") throughout the period while MCS II phases in. The Footprint sets forth the baseline number of rooms that should be allocated to a school based on the grade levels served by the school and number of classes per grade. For existing schools, the Footprint is applied to the current number of sections per grade, assuming class size will remain constant.

For grades six through twelve, the Footprint assumes that students move from class to class and that classrooms should be programmed at maximum efficiency. The Footprint does not require that every teacher have his or her own designated classroom. Principals are asked to program their schools efficiently so that classrooms can be used for multiple purposes throughout the course of the school day. The Footprint allocates the number of baseline rooms for student support services, resource rooms, and administrative space based on the grades a school serves and its enrollment at scale.

Though rooms in M056 currently may be used for various purposes, space in M056 is not currently programmed as efficiently as possible, and there are a significant number of excess spaces available for MCS II.

### **Fairness and Equitability of Proposal/Impact on Existing Schools**

- Comments 1a, 4c, 4e, 5c, 6b, 7a, 8a, 8b, 8d, 9c, 10a, 12a, 13b, 13d, 17, 18, 21, 49, and 48h assert that the proposal would be unfairly detrimental to the existing schools, inhibiting them from properly serving students.

The proposal applies the same standards for all elements of this proposal to MCS II as it does to the existing schools in M056 and as it does in all proposals. The calculation of the capacity of M056 was made according to the same formulas applied to all buildings in the City, and the application of the Footprint to the schools impacted by the proposal was applied the same way it is to all schools in the City impacted by proposals for significant changes to utilization. These standardized methods account for the specific features of each school's enrollment and ensure equitability for schools impacted by proposals like this one.

M056 is the most under-utilized building in District 1. Additionally, the schools in M056 are currently operating with more space than many high-performing schools that serve similar levels of special education students, students receiving free or reduced price lunches, English language learning students, and students served in self-contained classrooms, as measured by the peer index in each school's Citywide Progress Report. Many of these schools in the peer indexes are outperforming the schools in M056 despite having less space, proportionally.

If this proposal is approved, as noted in the BUP, the existing schools in M056 would continue to receive space for student support services, resource rooms, and administrative space. Even once MCS II has reached full-scale, each school in M056 will be allocated additional excess full-, half-, or quarter-size spaces above footprint requirements, though the schools would no longer receive as many excess rooms as they have in the past. Because the schools would no longer receive as many classrooms above their baseline allocation as they have in the past, the school management teams may choose to adjust their programming in order to utilize space more efficiently.

As a result, the proposed co-location of MCS II is not expected to impact current or future student enrollment or instructional programming at Henry Street, UNMS, or CASTLE.

- Comments 1b, 1d, 4b, 5b, 4d, 4e, 6d, 9d, 12a, 13a, 15, 22, 23, 32, 33, 40, 45b, 47b, and 54 assert that the proposal will specifically impact the existing schools' abilities to continue providing special programming for their high-needs student populations, formally and informally.

As mentioned above, many schools with similar populations are serving their students in proportionally smaller amounts of space with significantly positive outcomes. Existing ICT, SC, and SETSS classes would continue to be provided, and students with disabilities would continue to receive mandated services in accordance with their IEPs. The schools in M056 provide a diverse range of essential services, and the DOE believes these schools will be able to continue to effectively serve their students, meeting individual needs. The DOE will continue to provide support to the schools to ensure that the schools use the space efficiently in order to maximize capacity to support student needs and maintain appropriate delivery of special education and related services to students.

Again, schools are allocated space for student support services, resource rooms, and administrative space. Even once MCS II has reached full-scale, each school in M056 will be allocated additional excess full-, half-, or quarter-size spaces above their footprint requirements. The existing schools have also been allocated sole use of the science demonstration rooms and science lab in the proposed shared space plan. These rooms may be used in addition to those already designated for the specified programming.

- Comments 4d and 41 assert that the proposal will make it so existing schools no longer have enough space for legally required accommodations during state testing.

Again, many schools serving similar populations are producing positive outcomes while being allocated proportionally less space. The DOE does not anticipate that this proposal will prevent students from receiving their accommodations. As mentioned previously, each school in M056 will have access to a variety of spaces in addition to their baseline instructional spaces. These include the spaces allocated for student support services, resource rooms, administrative space, shared space—including science labs and a library, and additional excess full-, half-, or quarter-size spaces. The DOE will work with the existing schools in M056 to ensure that students' testing needs are met.

### **Class-size**

- Comments 1d, 13c, and 39 assert that the proposal will increase class-size at the existing schools.

Schools are free to program their classes as they choose. The DOE's standards for space allocations project class sizes that are lower than the United Federation of Teachers ("UFT") contractual class sizes. While the BUP may reallocate excess space from existing schools to MCS, it does not project that the number of students in each section

will rise to any significant degree. Additionally, as stated above, the DOE does not anticipate that the proposal will render the schools unable to implement forms of small group instruction or to provide pull-out services in accordance with students' IEPs.

Class size is primarily determined by how principals choose to program students at their school within their budget. Thus, no particular proposal, in and of itself, necessarily impacts class size. The Citywide Instructional Footprint relies upon the current programming at a school (number of sections) to determine the baseline footprint allocation. Decisions to co-locate schools are not based solely on the utilization figures in the Blue Book. The DOE also considers the total number of classrooms in the building and the number of sections currently programmed at all schools in the building or projected to be programmed to determine the availability of excess space and the baseline footprint for each school.

### **Students Served at MCS II**

- Comments 1f, 5g, 47c, 48e, 57a, and 57f assert that various types of students with high needs will not be served at MCS II.

All current and future age-appropriate students in District 1 will have the opportunity to enter the charter application lottery process to enroll in MCS II, regardless of their status as ELL students, students with special needs, or any other similar category. MCS II will work with students to ensure they receive the services necessary to their education. In addition, under the most recent amendments to the state charter law, charter schools must demonstrate efforts to attract and retain a percentage of ELL and special education students comparable to that of the non-charter public schools in the district. Charter schools which fail to do so risk denial of their renewal applications. As the school's authorizer, the State University of New York will monitor the school's compliance with this requirement.

### **Demand for Elementary Seats**

- Comments 2a, 3a, 9f, and 48d assert there is not sufficient demand for elementary seats in District 1 to justify the opening of a new elementary school.

The DOE supports parent choice and strives to ensure that all families have access to high-quality schools that meet their children's needs. This proposal is not solely based on the demand for elementary seats; rather, it is based on the need for greater access to high quality options in District 1, which the DOE believes MCS II will be, based on the success of MCS I, which MCS II will be modeled on. However, it is also true that District 1's kindergarten enrollment has grown every year for the past five years.

### **Number of Schools in M056**

- Comments 4a, 6a, 44, and 45d assert that the proposal would result in too many schools being located in M056.

Building M056 currently houses three schools: two middle schools and a secondary school. Many buildings throughout the City house multiple schools, and many house

more than three or four schools. As stated above, there is space for another organization in M056, and the DOE does not anticipate that the presence of an additional organization will negatively impact the other schools.

### **Changes in Enrollment at Existing Schools**

- Comments 1d, 5f, 9c, 11a, 20, 47f, and 48g assert that the enrollment levels of existing schools in M056 will be negatively impacted.

The BUP projects the number of sections at both UNMS and Henry Street to increase over the next few years, which is counter to the assertion that the DOE has assumed a decrease in enrollment at the schools in M056. Enrollment at CASTLE is assumed to remain constant. Current enrollment at Henry Street, according to the BUP, fills 18 GE/ICT sections and 3 self-contained sections. For 2012-2013 and beyond, the BUP projects that Henry Street will have 19 GE/ICT sections and 3 SC sections. According to the BUP, UNMS currently serves four GE/ICT sections and two SC sections. By 2013-2014, the BUP projects UNMS to serve six GE/ICT sections and two SC sections.

Additionally, regardless of these projected increases, through the middle school choice process and high school admissions process, students may choose their school by ranking their choices in an application. Hence, the enrollment at schools in M056 cannot be raised apart from more students ranking the schools higher in their applications, and a future rise or fall in enrollment at these schools would be the result of rising or falling demand for the schools.

The proposed co-location of MCS II is not expected to impact current or future student enrollment at Henry Street, UNMS, or CASTLE.

### **Gymnasium Use**

- Comments 6e, 19, 42, and 47d assert the gymnasium is already over capacity and will not be able to accommodate all schools with the proposal.

With respect to the gymnasium in M056, it is not currently over capacity. If programmed to meet the standard physical education requirements for students in the existing schools, the gym would still have multiple hours left over each day for additional programming. The DOE anticipated that the existing schools in M056 will be able to serve their students' physical education needs as a result of this proposal. Additionally, the potential use of Basketball City is mentioned in the Building Utilization Plan (BUP) merely as an additional option the schools will have in future years, rather than as a necessary element of future shared space scheduling.

### **Separation of Middle and High School Students**

- Comment 6c asserts that Henry Street will no longer be able to keep its high school and middle school students separate if the proposal is approved.

The BUP does not allocate specific rooms to schools; rather, it sets out the number and type of rooms each school will receive. If the proposal is approved, the final building

plan will be created by the Building Council in consultation with the DOE's Office of Space Planning. Depending on the final room allocation agreed upon by the Building Council, Henry Steet may be able to keep its high school and middle school students separate.

### **Elementary Students Co-located with Middle and High School Students**

- Comments 7b, 9e, 25, 47g, 47h, and 52 assert that many problems will arise from co-locating elementary students with middle and high school students.

The DOE currently manages other campuses where elementary schools are co-located with high schools, including the Julia Richman Educational Complex, which houses Ella Baker (a K-8 school), four high schools, and part of a District 75 special education program; Building M013, which houses Central Park East I Elementary School, Central Park East High School, a middle school, and another elementary school; and the Adlai Stevenson Campus which houses eight high schools, an Alternative Learning Center, and the full-day pre-kindergarten sections of elementary school P.S. 138; and the Brandeis Campus, which serves five high schools and Upper West Success Charter Elementary School. The DOE is not aware of any unusual discipline problems caused by the co-location of elementary age students with high school age students in those buildings. The DOE, in consultation with the Building Council, will, where possible, allocate contiguous and dedicated space to the elementary students to ensure the safety of all students. Additionally, there is no need to adapt bathroom facilities for use by young children, as current standard-size facilities are suitable for young children, just as standard-sized facilities are acceptable for their use in other settings, including in the children's homes.

### **Alternatives to M056**

- Comments 8a, 9a, 16, 37, 45c, 46, 48b, 53, and 57e assert that the DOE should have considered alternative options for the placement of MCS II, including private space.

The DOE does not and cannot provide charter schools with space in private buildings. Such agreements must be worked out between the charter school and the private landlord in question. As mentioned in the comments, the DOE understands that MCS II attempted to find private space, but was ultimately unsuccessful.

The DOE believes that all children in public schools, including public charter schools, should have access to the physical space and resources necessary to provide educational programming pursuant to the Footprint. This, it makes efforts to provide public charter schools with access to DOE facilities when it is appropriate and beneficial to the community. As mentioned above, building M056 is currently under-utilized and has space for the co-location of MCS II. The DOE considered all possible District 1 options for the co-location of MCS II and has concluded that the best location is MCS II.

### **Community Engagement**

- Comments 5a, 8d, and 28 assert the DOE should have engaged the community on this proposal more extensively to gain greater perspective on the proposal.

The DOE has followed all applicable laws with regard to engaging the community and publicizing the hearing. The DOE also held additional non-mandatory engagement meetings with the CEC and the SLTs of each existing school in M056 and their PTAs. The DOE considers all public feedback when making its proposals. In addition, this public comment analysis is made available to the public and members of the Panel for Educational Policy prior to the Panel's vote on the proposal.

### **Future Shared Space Plans**

- Comments 7b, 9b, and 47e assert that the proposal will overly burden shared spaces in M056. Specifically mentioned were the science rooms, music rooms, and the school yard.

In the BUP, the DOE has proposed a shared space plan that fairly and equitably allocates time in the shared spaces in M056. The DOE does not anticipate that this proposal will cause the existing schools to have insufficient access to shared spaces. Specifically, as outlined in the BUP, MCS II has not been allocated time in the science rooms because it will serve elementary school students who do not require time in a science room as part of their curriculum. Additionally, the music rooms have been allocated to the existing schools as regular instructional spaces, not shared spaces; therefore, it will not be necessary for the existing schools to share time in the music rooms with MCS II. The allocation of time in the school yard is also delineated in the BUP, showing that equitable distribution of time in the yard is possible.

### **Engagement of non-English Speaking Families**

- Comments 11b, 48f, and 57b-d assert that the engagement for this proposal has not properly engaged non-English speaking families.

The DOE provided Spanish and Chinese translations of all documents relating to the proposal, and the DOE provided interpretation services in Spanish, Mandarin, and Cantonese at the hearing on the proposal. The DOE distributed Chinese and Spanish translations of the joint public hearing notice and three separate parent letters to the three impacted schools. This means there were three versions (English, Spanish, and Chinese) each of the notice and three parent letters that were distributed, making 12 documents. Of those 12 documents, one document, the Chinese version of the Henry Street parent letter contained the incorrect address. The DOE notes that it was the Chinese translation of the parent letter, not the notice of joint public hearing, that contained the incorrect address. All other documents, including the Chinese translation of the hearing notice, which was distributed to all schools, and the Chinese translations of the parent letters to the other two schools, contained the correct address for the hearing. Additionally, the DOE posted a Chinese translation of the Panel for Educational Policy notice on the official DOE website, which contained the correct address for the hearing. The DOE distributed all of these documents in good faith and was not aware of the error until it was brought up at the joint public hearing.

Additionally, interpretation was provided to all non-English speaking families for the entirety of the hearing. All electronic devices used for interpretation were distributed, and no one indicated need for additional devices, yet an announcement was made in Spanish

to indicate alternative means of receiving interpretation, in case there was nonetheless additional need for devices.

### **Use of Formulas and Numerical Figures**

- Comment 14 asserts that the DOE's use of numerical figures reduces the humanity of those impacted by the proposal.

Numerical measures are an important element in creating proposals. However, the proposal is not based solely on the use of numbers. In the EIS, the DOE extensively describes 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.

### **Charter Schools**

- Comment 24 asserts that the proposal is problematic because MCS II is a charter school.

As mentioned previously, the DOE believes that all children in public schools, including those at public charter schools, should have access to the space and resources necessary to an excellent education. Additionally, the DOE is committed to providing a portfolio of high-quality school options to students and families. The DOE believes in the record of success of many charter schools, including MCS I, which MCS II will be modeled on, and will continue to partner with high-quality charter schools in an effort to continue providing new options for students and families.

### **Feeling of Inferiority**

- Comment 26 asserts that this proposal will create feelings of inferiority among the students at existing schools toward students at MCS II.

The DOE does not believe there is any basis for asserting that there will be a feeling of inferiority among students at the existing schools as a result of the proposal. The DOE believes the proposal treats all schools impacted by the proposal equitably. Nothing in the proposal suggests that students will be treated differently, except inasmuch as they are in different schools—a state that already exists in the building.

In addition, in accordance with New York State Charter Schools Act of 1998 (as amended), 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.

### **Support for Proposal**

- Comments 29, 30, 31, 34, 35, and 36 express support for the proposal.

No response is required.

### **Supporting Existing Schools as Alternative to Proposal**

- Comments 7a, 27, and 47f assert that the DOE should increase its support of the existing schools as an alternative to the proposal.

The process of opening a new school does not preclude the DOE from continuing to support other, existing schools and programs. On the contrary, the DOE will continue to work with existing public schools in District 1 to support and strengthen these options for District 1 students and families.

### **Demographics Impacted by Co-locations**

- Comments 50 and 55 assert co-locations are made according to the racial and ethnic makeup of the communities impacted by the proposals.

The decision about where to propose a co-location is based on where there is available space. The DOE does not consider the racial or ethnic factors into consideration in its decisions to propose co-locations. As mentioned previously, with this proposal, the DOE intends to increase the elementary options in District 1. Furthermore, the DOE does not believe this proposal will negatively impact any students, including those in any particular racial or ethnic group.

### **Residential District of MCS I Students**

- Comments 2b and 3b question how many students at MCS I reside in District 1.

MCS I gives priority to residents of District 1 in its lottery admissions process. As explained in the EIS, MCS II will also give priority to District 1 residents. The commenters assert that supporters of the proposal have justified the proposal due to the waitlist at MCS I, and the commenters have accordingly questioned the proportion of students from District 1 on the waitlist. The proportion of students at MCS I that reside in District 1 is not relevant to this proposal.

### **Charter Authorization**

- Comments 48b and 48c assert MCS II violated the Charter School Act with regard to its authorization process.

MCS II's charter has been authorized by the State University of New York Charter School Institute. The process for authorization is governed by that organization, not the DOE.

### **Resources**

- Comment 43 questions how the DOE can afford to place another school in M056, yet cannot afford textbooks for students at the existing schools.

As mentioned previously, the opening of a new school and the support of existing schools are not mutually exclusive. In fact, the use of under-utilized physical space is an example of the responsible use of resources available to the DOE, which may positively impact the ability of the DOE to provide other resources, like textbooks, whether directly or indirectly. Additionally, the purchase of specific materials, such as textbooks, is at the discretion of the principals of individual schools.

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

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