



Public Comment Analysis¹

Date: March 8, 2013

Topic: The Proposed Expansion of the Co-location of Achievement First Apollo Charter School (84K774) with Existing School J.H.S. 302 Rafael Cordero (19K302) in Building K302 Beginning in 2014-2015

Date of Panel Vote: March 11, 2013

Summary of Proposal

On January 22, 2013, the New York City Department of Education (“DOE”) posted an Educational Impact Statement (“EIS”) proposing to expand the co-location of existing public charter school, Achievement First Apollo Charter School (84K774, “AF Apollo”) in buildings K302 (“K302”) and Transportable Classroom Unit K974 (“K974”), located at 350 Linwood Street, Brooklyn, NY 11208, in Community School District 19 (“District 19”) beginning in 2014-2015.² AF Apollo currently serves students in kindergarten through third grade, and will serve students in kindergarten through fourth grade in the 2013-2014 school year. If this proposal is approved, AF Apollo will serve kindergarten through fifth grade students beginning in the 2014-2015 school year, eventually expanding to serve students in kindergarten through eighth grade in the 2017-2018 school year.

K302 also houses a Community Based Organization (“CBO”), Beacon, which provides after-school programming, and a School-Based Health Center (“SBHC”). The DOE does not expect the proposed expansion of AF Apollo to impact the space allocations for the SBHC or Beacon or their ability to provide services to students in the K302 building.

AF Apollo is currently co-located with J.H.S. 302 Rafael Cordero (19K302, “J.H.S. 302”), an existing district middle school. J.H.S. 302 currently serves sixth through eighth grade students through the District 19 Middle School Choice Process, giving priority to students who reside in the zone and then admitting students using an unscreened selection method.

On February 6, 2013, the EIS was amended to include information about the Cypress Hills Local Development Corporation’s receipt of a one-year Promise Neighborhoods Program planning grant from the United States Department of Education and J.H.S. 302’s partnership with the New York City Department of Health and Mental Hygiene.

In a separate amended EIS also published on February 6, 2013, the DOE has proposed to gradually phase out and eventually close J.H.S. 302 because of its low performance and inability to improve quickly to better support student needs. If the phase-out proposal is approved, J.H.S. 302 will no longer admit sixth

¹ The DOE will continue to accept comments concerning this proposal up to 24 hours prior to the Panel for Educational Policy’s (“PEP”) vote on March 11, 2013. Those additional comments will be addressed in an amended Public Comment Analysis which will be provided to the PEP before it votes on this proposal.

² For purposes of this Public Comment Analysis, all references to K302 refer to both K302 and K974.

grade students after the conclusion of the 2012-2013 school year. One grade will then be phased out each subsequent year. During the 2013-2014 school year, J.H.S. 302 will serve students in seventh and eighth grade; in 2014-2015 it will serve students in eighth grade. J.H.S. 302 will close after June 2015. That proposal can be found here: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2012-2013/Mar112013Proposals.htm>.

In a separate amended EIS also posted on February 6, 2013, the DOE is proposing to open and co-locate two new district middle schools, 19K661 and 19K662, in building K302 with AF Apollo and J.H.S. 302. That proposal can be found here <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2012-2013/Mar112013Proposals.htm>.

For the purposes of the amended EIS describing the proposal to expand the co-location of AF Apollo, it is assumed that the proposals to phase out J.H.S. 302 and open and co-locate two new district middle schools in K302 will be approved by the Panel for Educational Policy (“PEP”). However, if the proposal to phase out J.H.S. 302 is not approved, the DOE still believes there is space for the expansion of AF Apollo with J.H.S. 302 in buildings K302. If the proposal to phase out J.H.S. 302 is not approved, the replacement schools, 19K661 and 19K662, would not open.

As previously stated, AF Apollo is an existing charter school that currently serves kindergarten through third grade students in K302. AF Apollo is managed by Achievement First Schools (“Achievement First”), a Charter Management Organization (“CMO”). In January 2008, AF Apollo’s charter was authorized by the State University of New York Charter Schools Institute (“SUNY CSI”) to serve students in kindergarten through fifth grade. However, the school took two planning years to better prepare for opening, and did not open until September 2010. As such, AF Apollo recently applied for a two-year extension of its original charter to allow it to serve the full five year charter term (from September 2010 until June 2015). Only SUNY CSI has the authority to approve or deny the request for an extension.

In addition, AF Apollo has informed the DOE that it intends to apply to SUNY CSI to further expand its grade span to serve students in kindergarten through eighth grade, reaching full scale in 2017-2018. Only SUNY CSI has the authority to approve or deny that request. Should SUNY CSI deny AF Apollo’s request to expand, or if AF Apollo fails to make this request, AF Apollo will only serve its approved grade span of kindergarten through fifth grade in K302. If the expansion proposal is approved, AF Apollo would continue to expand to serve students in the sixth through eighth grades in K302. Beginning in 2014-2015, AF Apollo would serve kindergarten through fifth grade students, admitting kindergarten students through the charter lottery process with a preference given to District 19 students. AF Apollo will add one grade per year until the school reaches full scale and serves students in kindergarten through eighth grade in 2017-2018.

For the purposes of the amended EIS describing the proposal to expand the co-location of AF Apollo, it is assumed that the request for a two-year extension of its original charter and the request to expand its grade span will be approved by SUNY CSI. However, if either request is not approved, or if AF Apollo fails to make the request to expand its grade span, this proposal will be revised as necessary.

According to the 2011-2012 Enrollment Capacity Utilization Report (the “Blue Book”), K302 has the capacity to serve a total of 1,657 students.^{3, 4} In 2012-2013, the buildings are serving 1,231 total students,⁵ yielding a building utilization rate of 74%.⁶ This means that the building is “underutilized” and has

³ 2011-2012 Enrollment Capacity Utilization Report (“Blue Book”).

⁴ Capacity includes both building K302 and TCU K974.

⁵ 2012-2013 Unaudited Register (as of October 26, 2012)

space to accommodate additional students.⁷ If this proposal, the proposal to phase-out J.H.S. 302, and the proposal to open and co-locate 19K661 and 19K662 are all approved, in 2017-2018, once AF Apollo's kindergarten through eighth grades have fully phased in and the school has reached full scale, AF Apollo is projected to serve 710-890 kindergarten through eighth grade students,⁸ 19K661 is projected to serve 255-285 sixth through eighth grade students,⁹ and 19K662 is projected to serve 345-375 sixth through eighth grade students,¹⁰ for a total of 1,310-1,550 students in buildings K302, yielding a projected building utilization rate of approximately 79%-94%.

The details of this proposal have been released in an amended EIS and Building Utilization Plan ("BUP") which can be accessed here: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2012-2013/Mar112013Proposals.html>. Copies of the amended EIS and BUP are also available in J.H.S. 302 and AF Apollo's main offices.

Summary of Comments Received at the Joint Public Hearing

A joint public hearing regarding this proposal was held at building K302 on February 28, 2013. At that hearing, interested parties had an opportunity to provide input on the proposal. Approximately 50 members of the public attended the hearing and 22 people spoke. Present at the meeting were: Senior Superintendent Elaine Gorman; Community School District 19 Superintendent Joyce Stallings-Harte; Community Education Council 19 ("CEC 19") Representatives Shamona Kirkland and Erica Perez; J.H.S. 302 School Leadership Team ("SLT") Representatives, Oral Brody and Justin Greene; J.H.S. 302 Principal Lisa Linder; AF Apollo Principal Jabari Sims; Hugh Espinal, representing U.S. Senator Martin Dilan; and Miriam Sondheimer and Gabrielle Wyatt from the Division of Portfolio Planning.

The following comments and remarks were made at the joint public hearing:

1. Shamona Kirkland, a representative from CEC 19, stated the following:
 - a. The CEC would like to ensure that decisions made by the DOE better the community and promote a safe educational environment, and that parents' decisions are taken into consideration.
 - b. Children should have the opportunity to receive a great education, plus the supports and resources that will allow them to be productive citizens.
2. Oral Brody, representative from the SLT, stated the following:
 - a. Tonight's hearing has no impact on the PEP.

⁶ All references to building utilization rates in this document are based on target capacity data from the 2011-2012 Blue Book and enrollment data from the 2012-2013 Unaudited Register (as of October 26, 2012) or charter headcount as of October 1, 2012. 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. For the purposes of this proposal, the target capacity of 1,537 for building K302 and the target capacity of 120 for building K974 has been combined for a total capacity across the two buildings of 1,657.

⁷ The most recent Under-Utilized Space Memorandum and List was updated on November 20, 2012, and can be accessed at: http://schools.nyc.gov/NR/rdonlyres/6D8EA76A-82FA-4740-9ED1-66BCABEE8BFB/134525/UnderutilizedSpaceMemorandum112012_vFINALforprint.pdf.

⁸ All projections referenced for AF Apollo for the 2013-2014 school year and beyond reflect the charter school's authorized enrollment pursuant to its charter application.

⁹ Enrollment projections for 19K661 are based on a phase-in plan of three general education or Integrated Co-Teaching sections and one Self-Contained section in the first year. Actual enrollment in 2013-2014 and beyond, however, depends on applicant demand.

¹⁰ Enrollment projections for 19K662 are based on a phase-in plan of four general education or Integrated Co-Teaching sections and one Self-Contained section in the first year. Actual enrollment in 2013-2014 and beyond, however, depends on applicant demand.

- b. J.H.S. 302 has a 98% graduation rate, 100% pass rate on Science Regents, and 98% pass rate on the Math Regents.
 - c. Internal re-structuring took place after the New York State Education Department (“SED”) made recommendations to J.H.S. 302.
 - d. J.H.S. 302 will launch the first junior ROTC program in the country next year.
 - e. J.H.S. 302 has an iZone and an award-winning debate team. We also partner with Beacon and offer music classes.
 - f. Nationally, one-fifth of charter schools are passing. Charters decline after year three.
 - g. Charters do not have to deal with students who misbehave.
 - h. J.H.S. 302 has a large English Language Learner (“ELL”) population, but AF Apollo has only 3%.
 - i. Public schools educate everyone, but charters have a lottery system.
 - j. The DOE’s strategy is to close down schools and take advantage of non-union charter teachers.
3. Justin Greene, representative from the SLT, stated the following:
- a. The SLT is not in favor of expansion.
 - b. When at full capacity, J.H.S. 302 enrolled about 1,200 students. If AF Apollo expands, they will offer 900 seats, leaving only 600 seats for district school students. Where will J.H.S. 302’s other 315 students go? Where will our ELLs and students with Individualized Educational Programs (“IEPs”) go?
 - c. There is no equity in the lottery process, whereas J.H.S. 302 is willing to enroll every student.
 - d. Charters need to find their own space.
 - e. Why does the PEP get to vote on the proposed phase out of J.H.S. 302 as well as the expansion of AF Apollo? This is a conflict of interest.
 - f. J.H.S. 302 has 35 students in every class. The DOE should decrease AF Apollo’s school population so J.H.S. 302 has more space.
 - g. I am against the charter lottery system.
4. Erica Perez, representative from CEC 19, stated the following:
- a. I am not in agreement with these proposals.
 - b. The SLT rejects the proposal.
 - c. I have 500 petitions rejecting the proposal to expand AF Apollo on the grounds that there is no underutilized space.
 - d. There is corporal punishment in charter schools.
 - e. This is not a peaceful co-location. There is segregation.
 - f. DOE is contradictory when it says schools should be small but they are expanding AF Apollo.
 - g. J.H.S. 302 is understaffed and needs more teachers.
 - h. She has a letter from New York City Council Member Erik Martin Dilan stating his opposition to the charter expansion in the building.
5. Hugh Espinal, representing U.S. Senator Martin Dilan, stated the following:
- a. Every child should have the opportunity to sit in a classroom and learn, but also experience music and art.
 - b. The DOE is shrinking J.H.S. 302 every year.
 - c. J.H.S. 302 needs more space.
 - d. The building belongs to J.H.S. 302. AF Apollo should have their own building.
 - e. Whoever is making the decisions about this school should be sitting here listening.
6. One commenter expressed support for AF Apollo, stating both schools can share the building.
7. Several commenters stated support for the expansion of AF Apollo.
8. One commenter stated:
- a. J.H.S. 302 has a 100% passing rate.

- b. J.H.S. 302 needs more space to offer Regents classes.
 - c. J.H.S. 302 should have the opportunity to stay in the building.
9. One commenter stated the following:
- a. There is not enough space for 4 schools in the building.
 - b. J.H.S. 302 already has 40 students in each class.
 - c. There is not enough space in the building for the expansion.
 - d. Let J.H.S. 302 grow.
 - e. Why do district schools have to share with charter schools?
10. Multiple commenters stated the building is overcrowded and there is no space for the expansion of AF Apollo.
11. One commenter stated J.H.S. 302 should be given the space and resources to grow.
12. One commenter stated charter schools are semi-private schools because not everyone can enroll.

Summary of Issues Raised in Written and/or Oral Comments Submitted to the DOE regarding the Proposal

13. The J.H.S. 302 SLT submitted a petition rejecting the proposal on the grounds that:
- a. There is no underutilized space.
 - b. AF Apollo should use their existing space more effectively.
 - c. J.H.S. 302 admits new students every day.
 - d. J.H.S. 302's cadet program is needed by the community.
 - e. J.H.S. 302 needs space in order to thrive and succeed.
 - f. As stated by Ms. Carrie Marlin from the Office of Portfolio Planning, this is a proposal that could wait until next year.
14. Approximately 500 petitions were submitted from the J.H.S. 302 Parent Association stating the following:
- a. Parents, teachers, students, and the community of J.H.S. 302 reject the proposal.
 - b. There is no underutilized space.
 - c. The existing charter school should use their existing space more effectively.
15. The J.H.S. 302 SLT submitted a report outlining the reasons why J.H.S. 302 should be given the opportunity to grow and why the expansion will be devastating to the students. The report states the following:
- a. The current co-location has created large class sizes for J.H.S. 302.
 - b. J.H.S. 302 has a large ELL population and the lack of space comes at a cost to their education.
 - c. J.H.S. 302 created an academy structure this year, which will require space moving forward.
 - d. J.H.S. 302 has increased attendance rates since 2006.
 - e. J.H.S. 302 serves an above-average population of ELL students compared to the borough and the City. It is unfair to ask the school to be judged against other schools.
 - f. Our Quality Review results since 2009 demonstrate our improvements in closing the achievement gap, performance, and environment. For example, we've tripled the number of students taking Regents.
 - g. Our 2011-2012 Quality Review stated: "School leaders and teacher teams consistently make purposeful curriculum decisions that integrate Common Core Learning Standards and tasks resulting in rigorous instruction for all learners. A coherent set of beliefs about how students learn best is embedded in differentiated instructional practices across classrooms, which allow all learners to engage in critical thinking results and meaningful work products. Organizational decisions are purposeful, ensuring resources are well aligned with the school's instructional goals to accelerate student learning. Administration provides continuous feedback to teachers in order to support professional

growth aligned with a research-based framework, which results in improved teacher instructional practices.”

- h. J.H.S. 302 offers academic intervention services during the school day.
- i. The increase in class sizes at J.H.S. 302 can be directly linked to the school’s decline in performance. There are 38 students in every class.
- j. More students are taking and passing the Integrated Algebra Regents exam and earning high school credit.
- k. Students love J.H.S. 302 and the opportunities to perform on stage.

The DOE received written and/or oral comments which do not directly relate to the proposal and therefore, will not be addressed. Those comments are summarized below.

- 16. Approximately 500 petitions were submitted from the J.H.S. 302 Parent Association stating opposition to the proposed phase out of J.H.S. 302.

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

Comments 1 (a, b), 6, and 7 state support for the proposal and therefore do not need to be addressed.

Comments 2 (b, c), 8 (a), and 15 (d, e, f, g, i, j), and 16 are in reference to the proposed phase out and replacement of J.H.S. 302 and are responded to in the corresponding public comment analyses.

Comment 5(a) is unrelated to the proposal and will not be addressed.

Comments 2 (a) and 5 (e) relate to the public input process.

The DOE appreciates all feedback from the community regarding a proposal. When the Educational Impact Statement, Amended Educational Impact Statement, and Building Utilization Plan were issued, they were made available to the staff, faculty and parents at J.H.S. 302 and AF Apollo on the DOE’s Web site, and in each school’s respective main office. In addition, the DOE dedicated a proposal-specific website and email and phone line to collect feedback on this proposal. Furthermore, all schools’ staff, faculty and parent communities are invited to the Joint Public Hearing to provide further feedback.

While the DOE supports the expansion of the co-location of AF Apollo at K302, the DOE notes that no decision has been made on this proposal. Any proposed change to school utilization must be approved by the PEP.

Although the DOE recognizes that some members in the community oppose this proposal, the DOE believes that, if this proposal is approved, the school communities at J.H.S. 302 and AF Apollo will be able to create productive and collaborative partnerships.

Comments 2 (d, e), 13 (d), and 15 (c, h, k) pertain to current and future instructional and extracurricular programming and partnerships at J.H.S. 302.

As stated in the amended Educational Impact Statement, the proposed co-location is not expected to impact instructional programming for the schools currently co-located in K302. J.H.S. 302 will be able to continue offering existing special programs and initiatives, extra-curricular activities, and partnerships if the proposal is approved. However, the number and range of programs offered may gradually diminish if the proposal to phase out J.H.S. 302 is approved due to declining student enrollment as the school phases out. Again, it is difficult to predict precisely how those changes might be implemented as decisions will

rest with school administrators and will be made based on student interests and available resources. That is true for any City school as all schools modify extra-curricular offerings annually based on student demand and available resources.

Comment 2 (f) questions the success of charter schools.

Based on New York City Charter School Center findings, NYC charter schools have outperformed the Citywide district averages in ELA and Math proficiency on statewide exams each year from 2009-2010 through 2011-2012. In terms of academic growth, from 2010-2011 to 2011-2012, NYC charter school students' ELA proficiency increased by seven percentage points (from 44.5% in 2010-2011 to 51.5%), four points greater than the increase in traditional district schools (44.0% to 46.9%). NYC charter performance increased by three points in Math (from 68.4% to 72.0%), on par with district school students' increase (from 57.4% to 60.0%).

NYC Charter schools have also performed better than traditional public schools on the NYC Progress Report, earning a higher percentage of As, and a higher average percentile rank than district schools. On the 2011-2012 Progress Report, close to half (46%) of all charter schools received an A grade, compared to only 25% of public schools Citywide. In addition to receiving higher overall grades, NYC charters also scored better in each subcategory: Progress, Performance, and Environment.

Stanford University's Center for Research on Education Outcomes (CREDO), in a 2013 report, found that the typical student in a New York City charter school gains more learning in a year than his or her district school peer, amounting to about one more month of learning in reading and five more months of learning in math.

The report concluded that, on a school-by-school comparison, 63% of New York City Charter Schools demonstrated academic growth in math that was statistically larger than students would have achieved in traditional public schools. In reading, the report found that 22% of charter schools are showing statistically significant gains. Furthermore, the report found that charter school students make substantial gains in both reading and math in their second year enrolled in a charter school, and this impact stays positive and significant through their third and fourth year of attendance. The report also found that students who are Black and Hispanic enrolled in charter schools demonstrated significantly stronger gains in math than in traditional public schools. Furthermore, charter school students with disabilities or students eligible for free or reduced price lunch demonstrated stronger gains in reading and math than students in traditional public schools. Finally, according to the report, charter schools demonstrated strong performance in math across the range of starting scores, which indicates that charter schools are overall successful at improving student achievement regardless of academic background.

Comment 2 (g) pertains to disciplinary procedures and attrition rates in charter schools.

In May 2010, the Charter Schools Act was amended to expressly require that charter schools demonstrate good faith efforts to attract and retain English Language Learners ("ELLs"), students with disabilities, and students eligible for free or reduced lunch at rates comparable to those of the Community School District in which they are located. Charter schools must admit all students according to their lottery preferences, and may not turn away a student because of language ability, behavioral problems, or services required by an IEP.

The charter law requires charter schools to submit a variety of information, including attrition rates and suspension rates, to their authorizer and to the State on August 1st, for the preceding year. This information should be available that Winter/Spring. It can be found at the State's website here: <https://reportcards.nysed.gov/>.

Comment 2 (h) states J.H.S. 302 serves a large ELL population, as compared to AF Apollo.

According to the amended EIS, 17% of students at J.H.S. 302 and 3% of students at AF Apollo are ELL students.¹¹

As previously stated the DOE notes that pursuant 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 Learner (“ELL”) students comparable to the district average. Charter schools which fail to meet the special education and/or ELL targets set by their authorizer risk being closed or having their renewal applications rejected. Charter schools must admit all students according to their lottery preferences, and may not turn away a student because of language ability, behavioral problems, or services required by an IEP.

Comments 2 (i), 3 (c, g), and 12 pertain to the charter lottery system.

Any child eligible for admission to a district public school is eligible for admission to a public charter school. If the number of applicants exceeds the number of available seats at a charter school, a random selection process, such as a lottery, must be used. Lotteries select students randomly from among the applicant pool. Admission to a charter school cannot be limited on the basis of disability, race, creed, gender, national origin, religion, ancestry, intellectual ability, measures of achievement or aptitude, or athletic ability. Charter schools must admit all students according to their lottery preferences, and may not turn away a student because of language ability, behavioral problems, or services required by an IEP. Charter schools give preferences to students based on various factors, including, but not limited to, whether the applicant has a sibling already enrolled in the charter school, lives in the charter school’s community school district, is an ELL, and/or is eligible for free or reduced price lunches.

Application rules, procedures, and deadlines for charter schools vary, but most charter schools accept applications for the following school year until April 1 and conduct admissions lotteries during the second week of April. Interested parents should contact each charter school individually to obtain an application. Many schools also post applications on their websites.

Comments 2 (j), 3 (a), 4 (a, b, f, h), and 14 (a) state general opposition to the proposal.

Although the DOE recognizes that people in the community may have strong feelings against this proposal, the DOE believes that, if this proposal is approved, the school communities at J.H.S. 302 and AF Apollo will be able to continue to create productive and collaborative partnerships.

Comments 3 (d), 5 (d), and 9 (e) state AF Apollo and other charters should find their own space.

The DOE seeks to provide space for additional education options for all students, regardless of whether students are served in DOE or public charter schools. We welcome public charter schools to lease or provide their own space, but we will offer space in DOE buildings where it is feasible to do so. The DOE does not lease space directly for charter schools; a charter school interested in parochial school or other space would have to acquire or lease that space with private funds.

Comment 3 (b) states capacity figures and questions where J.H.S. 302 students will go if the proposal is approved.

¹¹ All figures are as a percentage of total students from the 2012-2013 Unaudited Register (as of October 26, 2012).

The expansion of AF Apollo will be a valuable addition to the District 19 community and will not prevent J.H.S. 302 from continuing to serve all students who seek to enroll there.

The DOE acknowledges that two additional proposals posted involving J.H.S. 302. If the proposal to phase out J.H.S. 302 is approved, J.H.S. 302 will no longer admit new sixth grade students after the end of this school year and will subsequently phase out one grade per year. All currently enrolled students will have the opportunity to continue their education at J.H.S. 302:

- **Current sixth- and seventh-grade students** will continue on to the next grade level at J.H.S. 302 in September 2013. These students can remain at J.H.S. 302 through their eighth-grade graduation.
- **Current sixth-grade students** who do not meet promotional standards would be served in one of the two new middle schools, located in the same building as J.H.S. 302.
- **Current eighth-grade students** will have the opportunity to graduate at the end of this school year.

During the course of the phase-out of J.H.S. 302, 19K661 and 19K662 will phase into the K302 building beginning with sixth grade in the 2013-2014 school year and adding one grade each subsequent year until each middle school reaches full scale serving sixth through eighth grade in the 2015-2016 school year. 19K661 and 19K662 will admit students through the District 19 Middle School Choice Process, offering priority to students residing in the K302 residential zone and then using a limited unscreened admissions method. Current J.H.S. 302 sixth-grade students who do not meet promotional standards at the end of this school year will have the opportunity to enroll as sixth-grade students at 19K661 and 19K662. If, in a future year, students attending J.H.S. 302 are held over in a grade that J.H.S. 302 will no longer serve, they will be served in one of the new district schools.

Furthermore, all students currently attending Title 1 schools that are designated as Priority or Focus schools under SED's state accountability system are eligible to apply for a transfer to another school through the DOE's Public School Choice (PSC) Process. This year, pending approval from SED, the DOE will prioritize students in eligible current and proposed phase-outs, including J.H.S. 302, to get first priority within the PSC process. This would mean that students at J.H.S. 302 would be considered for a public school transfer before other eligible applicants in non-phase out schools. Applications for these transfer opportunities will be available to students this spring for enrollment starting in September 2013.

Comment 3 (e) states it is a conflict of interest for the PEP to vote on all proposals involving J.H.S. 302.

Chancellor's Regulation A-190 governs the public review process for proposals for significant changes in school utilization. Significant changes include grade reconfigurations, co-locations, re-sitings, and phase-outs. Pursuant to Chancellor's Regulation A-190, all significant changes to school utilization require approval of the PEP.

Comments 3 (f), 9 (b), and 15 (a) state that J.H.S. 302 has large class sizes.

In New York City, we fund schools through a per pupil allocation. That is, funding "follows" the students and is weighted based on students' grade level and need (incoming proficiency level and special education/ELL/Title I status). Principals have discretion over their budget and make choices about how to prioritize their resources, including programming the number of classes needed for each grade. Class size is a reflection of student enrollment trends, and is affected by how principals program the number of classes needed for each grade.

Comments 4 (c), 9 (c), 10, 13 (a), and 14(b) state K302 is not an underutilized building and there is no space for AF Apollo to expand.

Buildings K302 and K974 are currently 74% utilized and on the underutilized list, and therefore, there is space for AF Apollo to expand.¹² As stated in the amended EIS, for the purposes of describing the proposal to expand the co-location of AF Apollo, it is assumed that the proposals to phase out and replace J.H.S. 302 are approved by the PEP. Building K302 has the capacity to serve 1,657 students. In 2012-2013, the building is serving 1,231 total students, yielding a building utilization rate of 74%. In 2017-2018, once J.H.S. 302 has completed its phase-out and 19K661, 19K662, and AF Apollo have reached full scale, it is projected that there would be approximately 1,310-1,550 students served in building K302, yielding an estimated utilization rate of 79%-94%.

If the phase out and replacement of J.H.S. 302 is not approved, there is still space in K302 and K974 for Apollo to expand in the under-utilized space, and the amended EIS and Building Utilization Plan would be revised as necessary.

Commenter 4 (d) states there is corporal punishment in charter schools.

Corporal punishment is illegal in New York State. Moreover, the New York State Commissioner of Education requires all public and charter schools to report all complaints of corporal punishment. The DOE's Office of Portfolio Management has not received any formal complaints about corporal punishment at any Achievement First schools.

Comment 4 (e) suggests the current co-location in building K302 is not peaceful.

The DOE expects and anticipates AF Apollo and J.H.S. 302 will work collaboratively to build a strong work relationship through the Building Council and Shared Space Committee. As indicated in the Building Utilization Plan, if disputes should arise, school leaders are encouraged to engage in the dispute resolution measures set forth in the Campus Policy memo available at:

<http://schools.nyc.gov/community/campusgov/KeyDocuments/CampusMemo.htm>.

Comment 4 (g) states J.H.S. 302 is understaffed and needs more teachers.

The DOE has seen a decline in the number of staffing positions at J.H.S. 302. However, the decline in staffing positions is a reflection of declining enrollment trends at J.H.S. 302. The number of staffing positions is dependent on budget projections, which is contingent on the number of students enrolled. When student enrollment declines, the allocation of per student funding declines. Therefore, the decline in staffing positions is a reflection of budget register projections.

Comment 5 (b) states the DOE is shrinking J.H.S. 302's enrollment annually. Comments 9 (d) and 11 state J.H.S. 302 should be allowed to grow.

The DOE notes that J.H.S. 302's enrollment has declined since 2006-2007 by 18%. Nothing leads us to believe that the proposed co-location will have an impact on J.H.S. 302's enrollment. The enrollment projections in the amended EIS are based on current enrollment at J.H.S. 302 at the entry point grade level, and assume that the same number of students will age up. However, the DOE notes that in two separate amended EISs, the DOE has proposed to gradually phase out and replace J.H.S. 302. The enrollment projections assume these proposals are passed.

¹² For more information on the Underutilized Space Memorandum, please see: <http://schools.nyc.gov/community/planning/changes/default.htm>.

Comments 5 (c), 8 (b), 13 (e), and 15(c) request more space for J.H.S. 302, and comment 9 (a) states that there is not enough space in the building for four school organizations.

There are currently hundreds of schools in buildings across the City that are co-located; some of these co-locations are multiple DOE schools while others are DOE and public charter schools sharing space. In all cases, allocation of classroom, resource, and administrative space is guided by the Citywide Instructional Footprint (the “Footprint”) which is applied to all schools in the building.

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 district schools. In all cases, the DOE seeks to provide high quality education and allow parents/students to choose where to attend school.

The Footprint is the guide used to allocate space to all schools based on the number of class sections the school programs 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/78D715EA-EC50-4AD1-82D1-1CAC544F5D30/0/DOEFOOTPRINTSConsolidatedVersion2011_FINAL.pdf.

For buildings with charter schools, a Building Utilization Plan (“BUP”) details the number of class sections each school is anticipated 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 for this proposal demonstrates that there is sufficient space in K302 to accommodate the proposed expansion of AF Apollo as well as J.H.S. 302 while it phases out and the proposed new district middle schools.

As stated previously, there is sufficient space in K302 and K974. The DOE is confident that J.H.S. 302 will be able to meet the needs of the students currently enrolled in the building within the space allocation of the Footprint

Comment 8 (c) requests the DOE allow J.H.S. 302 the opportunity to remain in the building.

As described previously, for purposes of describing the proposal to expand the co-location of AF Apollo, it is assumed that the proposals to phase out and replace J.H.S. 302 are approved by the PEP. If the phase out and replacement of J.H.S. 302 is not approved, there is still space in K302 and K974 for Apollo to expand in the under-utilized space, and the proposals would be revised as necessary.

Comments 13 (b) and 14 (c) state AF Apollo should use its current space more efficiently.

As indicated in the BUP, AF Apollo is currently using 1 full-size space in excess of its baseline Footprint allocation, whereas J.H.S. 302 is currently using 17 full-size and 7 half-size spaces in excess of its baseline Footprint allocation. Furthermore, while the Footprint sets forth a baseline space allocation, school leaders are empowered to make decisions about how to utilize the space allocated to the school. Each principal, therefore, must make decisions about how and where students will be served within the space allocated to the school.

Comment 13 (c) suggests J.H.S. 302 needs additional space for new students admitted throughout the year.

As stated previously, the proposal will not prevent J.H.S. 302 from continuing to serve all students who seek to enroll there. The DOE is confident that J.H.S. 302 will be able to meet the needs of the students currently enrolled in the building within the space allocation of the Footprint

Comment 13 (f) states the proposal can be posted at a later date.

The DOE believes that the proposal is feasible and has no reason to believe a delay in posting the proposal or a delay in implementation would provide additional benefits to the impacted schools. Furthermore, the DOE notes that AF Apollo recently applied for a two-year extension of its original charter to allow it to serve the full five year charter term (from September 2010 until June 2015).

In addition, AF Apollo has informed the DOE that it intends to apply to SUNY CSI to further expand its grade span to serve students in kindergarten through eighth grade, reaching full scale in 2017-2018. Only SUNY CSI has the authority to approve or deny that request. Should SUNY CSI deny AF Apollo's request to expand, or if AF Apollo fails to make this request, AF Apollo will only serve its approved grade span of kindergarten through fifth grade in K302. If the expansion proposal is approved, AF Apollo would continue to expand to serve students in the sixth through eighth grades in K302. Beginning in 2014-2015, AF Apollo would serve kindergarten through fifth grade students, admitting kindergarten students through the charter lottery process with a preference given to District 19 students. AF Apollo will add one grade per year until the school reaches full scale and serves students in kindergarten through eighth grade in 2017-2018.

The DOE strives to ensure that all students in New York City have access to a diverse range of high-quality schools at every stage of their education. In determining the optimal way to distribute space to schools, the DOE is proposing to expand AF Apollo.

Achievement First currently manages a total of six schools in New York City. Of the schools eligible for Progress Reports in 2011-2012, four schools – Achievement First Crown Heights, Achievement First Endeavor, Achievement First Bushwick, and Achievement First Brownsville – received As on the overall Progress Report, and one school, Achievement First East New York, received a B. AF Apollo is not yet eligible to receive a Progress Report.

The DOE recognizes Achievement First's record of success and supports AF Apollo's placement and expansion in District 19 in order to provide further educational opportunities for students and families.

Comment 15 (b) states ELL students at J.H.S. 302 will be negatively impacted by the proposal.

As stated in the EIS, J.H.S. 302 has an English as a Second Language ("ESL") program and Transitional Bilingual Spanish Program for English Language Learners ("ELLs"). Current students at J.H.S. 302 who receive ELL services will continue to receive appropriate services as the school phases out.

Changes Made to the Proposal

No changes have been made to this proposal.