

Public Comment Analysis¹

Date: March 8, 2013
Topic: The Proposed Opening and Co-location of Achievement First Charter High School 2 with Existing Schools J.H.S. 166 George Gershwin (19K166), the UFT Charter School (84K359), and a New Middle School (19K654) in Building K166 Beginning in 2013-2014
Date of Panel Vote: March 11, 2013

Summary of Proposal

The New York City Department of Education (“DOE”) is proposing to open and co-locate Achievement First Charter High School 2 (“AF High School 2”) in building K166 (“K166”), located at 800 Van Sicten Avenue, Brooklyn, NY 11207, in Community School District 19 (“District 19”) beginning in 2013-2014. When fully at scale, AF High School 2 will serve students in ninth through twelfth grades. If this proposal is approved, AF High School 2 will be co-located in K166 with J.H.S. 166 George Gershwin (“J.H.S. 166”), an existing district middle school that serves students in sixth through eighth grade; the UFT Charter School (84K359, “UFT Charter”), an existing public charter school that serves students in kindergarten through twelfth grades across two separate sites; and a proposed new district middle school (19K654, “19K654”) that when fully at scale will serve students in sixth through eighth grades, if that proposal is approved.

UFT Charter’s kindergarten through fifth grades are located in building K292 (“K292”), which is located at 300 Wyona Street and 301 Vermont Street, Brooklyn, NY, 11207 in District 19, while UFT Charter’s sixth through twelfth grades are located in building K166.² In a separate Educational Impact Statement (“EIS”) posted on January 17, 2013,³ the DOE has proposed to resite UFT Charter’s sixth through eighth grades from K166 to K292.

For the purposes of this EIS, which describes the opening and co-location of AF High School 2 in K166, it is assumed that the proposal to resite UFT Charter’s middle school grades to K292 will be approved by the Panel for Educational Policy (“PEP”). However, if the proposal to resite is not approved, this EIS and the accompanying Building Utilization Plan (“BUP”) will be revised as necessary.

In a separate EIS also posted on January 17, 2013, the DOE is proposing to phase-out J.H.S. 166 due to its low performance and inability to improve quickly to better support student needs.⁴ If that proposal is approved, J.H.S. 166 will no longer admit sixth 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. 166 will serve students in seventh and eighth grade and, in 2014-2015, it will serve students in eighth grade. J.H.S 166 will close after June 2015.

For the purposes of this EIS, which describes the opening and co-location of AF High School 2 in K166, it is assumed that the proposal to phase out J.H.S. 166 will be approved by the PEP. However, if the proposal

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 Although UFT Charter School’s kindergarten through fifth grade and J.H.S. 292 are both located in building K292, they use separate entrances and therefore have separate addresses.

³ The proposal can be found at: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2012-2013/Mar112013Proposals.htm>.

⁴ The proposal can be found at: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2012-2013/Mar112013Proposals.htm>.

to phase-out is not approved, this EIS and the accompanying BUP will be revised as necessary.

In a separate EIS also posted on January 17, 2013, the DOE is proposing to co-locate and phase in 19K654 in K166, which will serve students in sixth through eighth grade and will admit students through the District 19 Middle School Choice Process, offering priority to students residing in the K166 residential zone and then using a limited unscreened admissions method.⁵ If that proposal is approved, 19K654 will begin enrolling sixth grade students in 2013-2014 and will add one grade per year until it is at full scale and serves students in sixth through eighth grade in 2015-2016.

On February 5, 2013, the DOE issued amended Educational Impact Statements for the proposals to phase out J.H.S. 166 and replace it with 19K654. The Educational Impact Statements were amended to update the eligibility status of J.H.S. 166 for School Improvement Grant funding. The amended information did not substantially revise the proposal.

For the purposes of this EIS, which describes the opening and co-location of AF High School 2 in K166, it is assumed that the proposal to co-locate 19K654 in K166 will be approved by the PEP. However, if the proposal to co-locate 19K654 is not approved, this EIS and the accompanying BUP will be revised as necessary.

AF High School 2 will open with ninth-grade in 2013-2014, and will add one grade each year until it serves students in ninth through twelfth grades in 2016-2017. AF High School 2 will only enroll students who have been promoted from one of two charter middle schools currently operated by Achievement First Schools (“Achievement First”), a Charter Management Organization (“CMO”). The charter middle schools that will feed into AF High School 2 beginning in the 2013-2014 school year are Achievement First Bushwick (84K538, “AF Bushwick”), located in Community School District 32 (“District 32”), and Achievement First East New York (84K358, “AF East NY”), located in District 19. AF Bushwick was authorized by the State University of New York’s Charter School Institute (“SUNY CSI”) and opened in the 2006-2007 school year. AF East NY was authorized by the DOE and opened in the 2005-2006 school year. AF Bushwick is currently authorized to serve grades K-11 and AF East NY is currently authorized to serve K-10; both schools have informed the DOE that they intend to apply to their authorizers to expand to serve K-12. Should SUNY CSI or the DOE deny AF Bushwick or AF East NY’s requests to expand, or if AF Bushwick or AF East NY fails to make these requests, the respective school will only serve its presently approved grade span.

According to the 2011-2012 Enrollment Capacity Utilization Report (the “Blue Book”), K166 has the capacity to serve a total of 1,320 students. In 2012-2013, J.H.S 166 is serving 400 students⁶ and UFT Charter is serving 586 sixth through twelfth grade students,⁷ yielding a building utilization rate of 75%.⁸ This means that the building is “underutilized” and has space to accommodate additional students. If this proposal is approved, in 2016-2017, once AF High School 2’s ninth through twelfth grades have fully phased in and the school has reached full scale, AF High School 2 is projected to serve 325-410 ninth through twelfth grade students, UFT Charter is projected to serve 225-285 ninth through twelfth grade students, 19K654 is projected to serve 345- 375 sixth through eighth grade students, and J.H.S. 166 will no

⁵ The proposal can be found at: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2012-2013/Mar112013Proposals.htm>.

⁶ 2012-2013 Unaudited Register (as of October 26, 2012).

⁷ This figure represents total headcount as of October 1, 2012.

⁸ All references to building utilization rates in this document are based on 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.

longer serve any students, for a total of 895- 1,070 students, yielding a projected building utilization rate of approximately 68%- 81%.

K166 houses two community-based organizations (“CBOs”): CAMBA and the East New York Campus Satellite of Medgar Evers College (“ENY”). ENY hosts a GED Plus program in K166. GED Plus programs help students earn their GED and prepare them for college and career options. GED programs are offered to students who are 18-21 years old and are available as full-time or part-time programs. More information about GED Programs is available:

<http://schools.nyc.gov/Offices/District79/SchoolsProgramsServices/default.htm>.

Summary of Comments Received at the Joint Public Hearing

A joint public hearing regarding this proposal was held on February 21, 2013 at K166. Participants had the opportunity to provide input on the proposal.

Approximately 87 members of the public attended the hearing, and 14 people spoke. Present at the meeting were Community School District 19 Superintendent Joyce Stallings-Harte; District 19 Community Education Council (“CEC 19”) Representatives Erica Perez and Joyce French; Maria Ortega, Principal of J.H.S. 166; a representative from the Council Of School Supervisors and Administrators; Gregory Grant, a representative of the Parent Teacher Association (“PTA”) and School Leadership Team; Liz Genco representative from SUNY CSI; New York City Council Member Charles Barron; Deputy Chancellor David Weiner; and Senior Director of School and Community Support Olivia Ellis; and Director of Brooklyn Planning Carrie Marlin from the Department of Education.

The following comments and remarks were made or submitted at the Joint Public Hearing on February 21, 2013:

1. Gregory Grant, a representative of the School Leadership Team and PTA stated:
 - a. We do not have a choice of which students we accept. Other schools get to handpick their students.
 - b. We get students from our feeder schools who have low scores and we have six months to improve their scores.
 - c. Every year, we are faced with the same challenges but the DOE has not helped us.
 - d. We lost a lot of qualified teachers who are either tired and chose to move on or are scared of the school being shut down.
 - e. We should have the chance to start on an even playing field.
 - f. We are still here working and we will continue to educate children.
2. CEC 19 Representative Erica Perez stated that she is sad to sit here and see a school that is successful be attacked with the rest of her community. She further stated:
 - a. The school received a 95% pass rate on the Regents, so how is this considered a failing school?
 - b. 265 students at the school are overage which creates a lot of challenges. This is an unfair disadvantage when it comes to state testing.
 - c. The overage population is challenging. These are students who know they do not belong in Junior High School anymore. We deal with a lot of drop-outs and this school to prison pipeline needs to stop.
 - d. Charter schools will not accept these students because they are overage.
 - e. We should build a D79 program at the junior high school level and deal with keeping these students out of the penal system.
 - f. There are 395 students in the school and 28% of the students are special education students. This creates a very challenging environment and no one is taking into account that these students have nowhere else to go.

3. Principal Maria Ortega explained how she has been with the school for nine years and had been trained by the Leadership Academy. She explained that because of the location of J.H.S. 166, the school faces many large community issues like drugs and gang violence. She further stated:
 - a. We are a zoned school who accepts all of the students that are sent here. These students deserve all of the same opportunities.
 - b. The percentage of special education students has increased over the years. Our school now has 28% of students who are special education students. This takes a lot of time and resources to support these students.
 - c. 28% of the students at J.H.S. 166 have IEPs, while most other schools have 12%-15% of their students with IEPs.
 - d. We prepare our students for life by focusing them on ideas and concepts.
 - e. All of the increased programs at J.H.S. 166 have taught our students new ways of learning and how to avoid violence.
 - f. We have increased the performing arts programs at J.H.S. 166. We now have a chorus, a glee club, instrumentals, drama, theater, martial arts, and other programs.
 - g. The school has implemented a positive behavior support system where the students can earn Gershwin bucks.
 - h. Overage students are not accepted at other schools in New York City.
 - i. There are attendance issues with students who receive full-fare or half-fare metro cards. Students who receive half-fare metro cards have trouble attending school.
 - j. This has been a challenging environment to work in because our targets move each year. We have been a Restart model, a Turnaround model, and are now being proposed to phase-out. We need to be given a chance to improve and gain support from the DOE.
4. New York City Council Member Charles Barron spoke about the progress that J.H.S. 166 has made. He stated that:
 - a. There are D and F schools that are not being phased-out, but we are a C school.
 - b. We should have a meeting with the Chancellor to take about our plans to improve this school.
 - c. We need to make sure that every school receives support and proper resources to educate children.
 - d. The Mayor is trying to privatize education.
 - e. We are not anti-charter, and every parent deserves a choice. The Mayor is manipulating charter and district parents to be at odds with each other.
 - f. This plan to have four schools in one building does not make sense. It will cause overcrowding in the school.
 - g. The students should not have lunch time scheduled at 10:00am, nor should the students share spaces with each other.
 - h. This school has the essential qualities of a strong school and it belongs to the community.
 - i. Public charters are not like public schools. The charters take the cream of the crop from public schools and then evaluate the students differently and kick out the students who do not fit the model.
5. Three speakers spoke in support of the Achievement First co-location. The speakers believe that Achievement First will be a good partner and has seen co-location work at other schools.
6. One speaker spoke in support of the Achievement First co-location, noting that Achievement First helped his child with special needs. The speaker noted the co-location will work and the schools will be great partners.
7. One speaker spoke in support of Achievement First co-location in District 19. The speaker noted that District 19 needs more options and that Achievement First will create strong partnerships with the community.
8. A member of the J.H.S. 166 SLT spoke in support of the school and noted the following:
 - a. NYC schools are getting defunded and this is not fair.
 - b. If the community came together, we have the ability to save our school.
9. A parent from J.H.S. 166 spoke in support of the school, and noted the following:

- a. She does not understand why the school is being proposed for phase-out.
 - b. She noted that the teachers here treat their students like their own children.
 - c. The school should receive more money to be successful.
10. A representative from the Council of School Supervisors and Administrators (“CSA”) spoke personally in support of Principal Ortega and the District 19 community. The representative that recited a response on behalf of CSA. The response noted that:
- a. The schools proposed for phase-out do not fit a pattern. It seems the DOE picked these schools as if they were playing Russian roulette.
 - b. The DOE is closing schools to open up more charter schools
 - c. Low performing students are housed in warehouse schools. This is a failing strategy for turning schools around.

Additionally, two questions was submitted in writing to the DOE at the Joint Public Hearing:

11. If the proposed phase-out is passed, how do we know the replacement plan will provide a better option for students?
12. What happened in the case of equity funding for schools?

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

Comments 2(e), 3(i), 4(d), 4(e), 8(b), 10 (c), and 12 are not directly related to the proposal and thus do not require a response.

Comments 5, 6, and 7 are in favor of the proposal and do not require a response.

Comments 1(a), 1(b), 1(c), 1(d), 1(e), 1(f), 2(a), 2(b), 2(c), 2(f), 3(a), 3(b), 3(c), 3(d), 3(e), 3(f), 3(g), 3(j), 4(a), 4(b), 4(c), 4(h), 8(a), 9(a), 9(b), 9(c), 10(a), and 11 are related to a separate proposal and do not require a response.

Comment 4(f) concerns space in the building.

The DOE has determined that K166 has sufficient space to simultaneously phase-out J.H.S. 166 and phase-in 19K654, while also simultaneously resiting UFT Charter’s middle school grades and phasing-in AF High School 2. With regard to the distribution of space, the DOE applies the Citywide Instructional Footprint (the “Footprint”)⁹ to allocate a total room count to each organization as they phase into K166. The assignment of specific rooms for each school in the building will be made in consultation with the Principals of each school and the Office of Space Planning if this proposal is approved.

The Footprint is applied to both DOE and public charter schools to ensure equitable allocation of classroom, resource and administrative space. 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 class sections per grade. The number of class sections at each school are determined by the Principal based on enrollment, budget, and student needs; there is a standard guideline of target class size (i.e., number of students in a class section) for each grade level. At the middle school and high school levels, the Footprint assumes every classroom is programmed during every period of the school day except one lunch period.

⁹ The full text of the Instructional Footprint is available at http://schools.nyc.gov/NR/ronlyres/78D715EA-EC50-4AD1-82D1-1CAC544F5D30/0/DOEFOOTPRINTSConsolidatedVersion2011_FINAL.pdf

The Building Utilization Plans (“BUP”) attached to this proposal details the number of class sections each school is expected to program each year through 2015-2016 and allocates the number of classrooms accordingly. The BUP demonstrates that there is sufficient space in the building to accommodate the proposed co-location. Based on the BUP, each school will receive their baseline Instructional Footprint and will be allocated excess space throughout each year of the proposal.

Comment 4(g) concerns how the shared space schedule is developed.

The BUP outlines a proposed Shared Space plan for the co-located schools, which outlines the duration of time each of the co-located schools will have in each of the shared spaces in building K166. The Shared Space Plan is based upon the population size and other relevant factors further described below for each co-located school. Although the DOE has proposed how the shared spaces in the building may be utilized, Building Councils are free to deviate from the proposed Shared Space Plan to accommodate specific programmatic needs of all special populations or groups within each school as is feasible and equitable, provided that the Building Council comes to an agreement of the final Shared Space Plan collaboratively.

Ultimately, if all related proposals involving building K166 are approved, principals for all co-located schools would sit on the Building Council, and would create a plan for the allocation of shared spaces if this proposal is approved by the PEP. The Building Council meets regularly to address issues related to space allocations and shared space usage. In buildings with a charter school, there is also a Shared Space Committee, which meets at least four times per year, and includes a parent and teacher representative from each school. This committee monitors the implementation of the shared space schedule, and identifies areas of concern that can be addressed by the Building Council. According to Chancellor’s Regulation A-190, the shared space committee shall be comprised of the principal (or an assistant principal of the D75 school organization), a teacher, and a parent from each co-located school or D75 school organization. With respect to a non-charter school’s teacher and parent members, such shared space committee members shall be selected by the corresponding constituent member of the SLT at that school.

The Shared Space plan contained in the Building Utilization Plan does allocate time to each of the schools located in the building. Based on the plan, 19K654 will have lunch from 10:30a.m.-11:30a.m., UFT Charter will have lunch from 11:30a.m.-12:30p.m., J.H.S. 166 will have lunch from 12:30p.m.-1:30p.m., and AF High School 2 will have lunch from 1:30p.m.-2:30p.m. As stated earlier, the Building Council is free to deviate from the proposed Shared Space Plan to accommodate specific programmatic needs

Comments 2(d), 3(h), and 4(i) concern how charter and district schools accept students and note the admissions process for overage students.

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 blindly from among the applicant pool, but give preference to applicants from the community school district that the school is located in. Charter schools may give additional preferences to students based on various factors, including, but not limited to, whether the applicant has a sibling already enrolled in the charter school, is an English Language Learner, 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 1st and conduct admissions lotteries during the second week of April. 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 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, age or services required by an IEP.

In May 2010 the Charter Schools Act was amended to expressly require that charter schools demonstrate good faith efforts to attract and retain ELLs, students with disabilities, and students eligible for free or reduced lunch at rates comparable to those of the Community School District.

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

Comment 10(b) asserts that the DOE is closing schools to open up more charter schools.

The DOE proposes schools for phase-out when it believes a school does not have the capacity to turn around quickly enough to improve student outcomes. When these seats need to be replaced to ensure students have access to high quality seats, DOE determines what replacement option makes most sense based on that individual school community and district's needs. In a concerted effort to ensure that all students have access to high-quality school programs, the Department of Education annually reviews the performance of all schools Citywide. This process identifies schools that are having the most trouble serving their students and are in need of intervention. To ensure that as many students as possible have access to the best possible education, under this Administration, New York City has replaced 142 of our lowest-performing schools with better options and opened 576 new schools: 427 district schools and 149 public charter schools.

As a result, the DOE created more high-quality district and charter options for families. If the DOE proposes to close a school, the school, if needed, is replaced with an option to replace the seats. The DOE is proposing to replace the seats lost by the proposed phase out of J.H.S. 166 by opening a new district middle school.

Changes Made to the Proposal

No changes have been made to this proposal.