

### Public Comment Analysis

Date: June 23, 2014

Topic: The Proposed Extension and Expansion of the Temporary Co-location of DREAM Charter School (84M382) with Existing School P.S. 38 Roberto Clemente (04M038) in Building M121 Through the 2014-2015 School Year and the Co-location of Grades Six Through Eight of Harlem Prep Charter School (84M708) Beginning in the 2015-2016 School Year

Date of Panel Vote: June 24, 2014

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### Summary of Proposal

On February 28, 2014, the New York City Department of Education (“DOE”) issued an Educational Impact Statement (“EIS”) and Building Utilization Plan (“BUP”) describing a proposal to extend the co-location of DREAM Charter School (84M382, “DREAM”) with existing school P.S. 38 Roberto Clemente (04M038, “P.S. 38”) in building M121 (“M121”) located at 232 East 103<sup>rd</sup> Street, Manhattan, NY 10029, in Community School District 4 (“District 4”), through the conclusion of the 2014-2015 school year. P.S. 38 is an existing zoned elementary school that currently serves students in kindergarten through fifth grade and offers two sections of full-day pre-kindergarten. The DOE is also proposing to delay the co-location of grades six through eight of an existing public charter school, Harlem Prep Charter School (84M708, “Harlem Prep”), in building M121 until the beginning of the 2015-2016 school year.

The DOE amended the EIS on June 11, 2014 to include updated information about the projected building utilization rate for M121 in the 2015-2016 school year and the status of two related proposals.

DREAM is an existing charter elementary school that currently serves students in kindergarten through sixth grade at two sites: DREAM serves its students in kindergarten and first grade in building M050 (“M050”), located at 433 East 100<sup>th</sup> Street, New York, NY 10029, in District 4. DREAM serves its students in second through sixth grade in building M121. If this proposal is approved, next year DREAM’s third through seventh grade students will be served in building M121. As described in a separate EIS posted on February 28, 2014, the DOE further proposed that DREAM’s kindergarten through second grade students be served in M050 during the 2014-2015 school year. The Panel for Educational Policy (“PEP”) approved that proposal on May 29, 2014.

In a previous EIS posted on November 29, 2012, the DOE proposed to re-site and co-locate Harlem Prep’s sixth through eighth grade students from building M099 (“M099”), located at 410 East 100<sup>th</sup> Street, New York, NY, 10029 in District 4, to M121 beginning in the 2014-2015 school year. The PEP approved that proposal on January 16, 2013. That proposal was based on the expectation that DREAM would move out of M121 and into its non-DOE-operated facility prior to the 2014-2015 school year. However, because of construction delays, DREAM will not be able to occupy its facility in time for the 2014-2015 school year. Thus, the DOE now proposes to extend DREAM’s co-location in M121 through the conclusion of the 2014-2015 school year. There is insufficient space in M121 to accommodate P.S. 38, DREAM and Harlem Prep’s sixth through eighth grades during the 2014-2015 school year. Therefore, the DOE also proposes to delay the co-location of Harlem Prep’s grades six through eight in

M121 until the beginning of the 2015-2016 school year.

As described in a separate EIS posted on February 28, 2014, the DOE further proposed to extend Harlem Prep's co-location in M099 through the 2014-2015 school year (the "M099 EIS"). The PEP approved that proposal on May 29, 2014.

DREAM will re-locate to a non-DOE-operated facility prior to the start of the 2015-2016 school year. If DREAM is unable to move into that facility prior to the start of the 2015-2016 school year as planned, DREAM will explore options to serve its students in a temporary space.

Construction is underway on the new facility for DREAM. Civic Builders, Inc., the entity responsible for the construction of DREAM's permanent facility, has advised the DOE that the facility will be completed for student occupancy by August 2015. The School Construction Authority ("SCA") will continue to visit the construction site periodically to observe and confirm the progress on the facility's construction.

DREAM admits students via a charter lottery every year for every grade. The lottery provides preference to students who reside in District 4. Special enrollment preference will be given to incoming kindergarteners who live in New York City Housing Authority ("NYCHA") housing in District 4. DREAM also admits students from a waitlist throughout the year.

M121 also houses a Community-based Organization ("CBO"), Mount Sinai. This proposal is not expected to impact the continued siting of the CBO.

In the 2013-2014 school year, Harlem Prep serves students in grades kindergarten through seven at two sites: students in kindergarten through fifth grade are served in a private facility located at 240 East 123<sup>rd</sup> Street, New York, NY 10035 in District 4; and students in sixth through seventh grades are served in M099.

If this proposal is approved, Harlem Prep will serve grades six through eight in M121 beginning in the 2015-2016 school year.

The details of this proposal have been released in an amended EIS and BUP. Proposal documents can be accessed here: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2013-2014/June2014PEPSchoolProposals>.

Copies of the amended EIS and BUP are also available in the main offices of P.S. 38, Harlem Prep, and DREAM.

### **Summary of Comments Received**

A walkthrough of the M121 building was conducted by Jesse Mojica, Executive Director of the Division of Family and Community Engagement on April 7, 2014. Carlina Santos-Barton, principal of P.S. 38; Traci Douglas, Director of Operations for DREAM; and Rich Berlin, executive director of Harlem RBI, attended the walkthrough. Following the walkthrough, a community meeting regarding this proposal was held at the M121 building on April 7, 2014. At that meeting, interested parties had an opportunity to provide input and ask questions about the proposal. Present at the community meeting were District 4 Superintendent Alexandra Estrella; Principal Santos-Barton; Traci Douglas, DREAM's Director of

Operations; a representative from Assemblyman Robert Rodriguez's office; and Drew Patterson of the Office of District Planning ("District Planning"). 16 members of the public attended the community meeting.

A joint public hearing regarding the proposal was held on April 9, 2014. At the joint public hearing, interested parties also had the opportunity to provide input on the proposal. Approximately 90 members of the public attended the hearing and 17 people spoke. Present at the joint public hearing were District 4 Superintendent Estrella; Laura Lugo-Rivera, member of the District 4 Community Education Council ("CEC 4"); Traci Douglas; Kim Dacres, Campus Director of Harlem Prep; Principal Santos-Barton; Elmer Myers, network leader for P.S. 38; and Jennifer Peng and Drew Patterson of District Planning.

The proposal was further discussed at the May 29, 2014 PEP meeting.

On June 9, 2014, the DOE conducted an additional walkthrough of the M121 building with PEP members. PEP members Milady Baez, Fred Baptiste, T. Elzora Cleveland, Vanessa Leung, Kamillah Payne-Hanks, Lori Podvesker, Laura Zingmond, and D. Miguelina Zorrilla-Aristy attended the walkthrough.

The following comments and remarks were made at the April 7, 2014 community meeting, the April 9, 2014 joint public hearing, and/or the May 29, 2014 PEP meeting:

1. Harlem Prep Campus Director Kim Dacres asserted the following:
  - a. Harlem Prep is a great neighbor at the current site, M099. Harlem Prep shares bathrooms, cafeterias, auditorium space, and gyms.
  - b. Harlem Prep needs space for students and students' programming.
2. P.S. 38 Principal Santos-Barton asserted the following:
  - a. It is good to hear of the goodwill and positive efforts of Harlem Prep.
  - b. P.S. 38 seeks more space in order to serve its students and provide mandated services, like physical education. We would like to offer more programming, but cannot without the space to grow.
3. Multiple students who are currently attending Harlem Prep's affiliated high schools or elementary schools asserted that Harlem Prep has been critical to their success and that they support the proposal.
4. Multiple parents whose children are currently attending Harlem Prep's affiliated high schools or elementary schools asserted that Harlem Prep's teachers and school leaders are dedicated to their children. They have seen their children make great gains after attending Harlem Prep. They support this proposal.
5. Multiple teachers at Harlem Prep, and Harlem Prep's affiliated high schools and elementary schools asserted their support for the proposal to site Harlem Prep in building M121 and for the related proposal to extend the co-location of Harlem Prep in M099.
6. Multiple teachers stated that remaining at Harlem Prep's current site would curtail the middle school's enrollment, but that at M121, enrollment could grow to full-scale.
7. One commenter who is a member of the parent association at DREAM asserted that she supports the proposal to extend DREAM's co-location at M121. The commenter asserted that DREAM's co-location at M121 is good, but is also a work in progress. DREAM can support conversations between Harlem Prep and P.S. 38 in order to make their co-location better.

8. One commenter who is a P.S. 38 teacher expressed concerns about the overcrowding of M121, and the sufficiency of space to serve students who require related services.
9. One commenter who is a parent and Parent-Teacher Association member at P.S. 38 asserted that the main issue of this co-location is space. DREAM and P.S. 38 have always gotten along well, but the P.S. 38 students are missing out on music, science lab, and art. The basketball team doesn't have enough time to practice. The commenter believes that Harlem Prep's growth will come at the expense of P.S. 38's children's growth.
10. One commenter who is a teacher at P.S. 38 asserted the following:
  - a. She is looking for a guarantee that no additional space will be taken away from P.S. 38 because of this extension of co-location.
  - b. It is difficult to manage behavioral issues or provide differentiated instruction. Extracurricular activities are threatened because P.S. 38 has lost art and music rooms.
11. Elender Foxe, member of CEC 4, asserted the following:
  - a. There are concerns about overcrowding and serving students with disabilities and English Language Learners ("ELLs").
  - b. It seems like there should be additional space made available for P.S. 38 given that DREAM serves students across five grades and Harlem Prep only serves students across three grades.
  - c. We don't want to lose the arts in our community.
12. A parent of a child at P.S. 38 asserted the following:
  - a. P.S. 38 is unable to use the gym while DREAM is using the gym. This must be addressed so that kids can get their mandated gym time.
  - b. There are concerns about Harlem Prep having more classes than DREAM. This plan does not allow for wiggle room. P.S. 38 needs to have the space to be prepared to meet the needs of future students.
  - c. Security may be an issue, since older kids will fight. You cannot keep everyone self-contained and it is a concern when there is mixing of students at different grade levels.
  - d. We should have community meetings earlier in the process.
13. A PEP member at the May 29, 2014 PEP vote expressed concern about the projected utilization rate for the 2015-2016 school year reported in the EIS posted on February 28, 2014.

### **Summary of Issues Raised in Written and/or Oral Comments Submitted to the DOE**

The DOE received 1 written comment.

14. Harlem Prep's Board of Trustees submitted a letter in which it asserted the applicability of recent amendments to the NY Education Law which concern charter consent for the revision or withdrawal of an approved co-location proposal. Harlem Prep further indicated that it will consent to the M121 proposal contingent upon the approval of the M099 proposal.

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

Comments 2b, 8, 9, 10a-b, 11a-c, 12b, and 13 concern the impact of the proposal on overcrowding at M121, and the provision of arts programming, special education services, and ELL services for P.S. 38 students.

The Citywide Instructional Footprint (the “Footprint”) is the guide used to allocate space to all schools based on the number of class sections they program and the grade levels of the school. The number of class sections at each school is determined by the principal based on enrollment, budget, and student needs; there is a standard guideline of target class size (i.e., number of students in a class section) for each grade level. At the middle school and high school levels, the Footprint assumes every classroom is programmed during every period of the school day except one lunch period. The full text of the Instructional Footprint is available at [http://schools.nyc.gov/NR/rdonlyres/78D715EA-EC50-4AD1-82D1-1CAC544F5D30/0/DOEFOOTPRINTSConsolidatedVersion2011\\_FINAL.pdf](http://schools.nyc.gov/NR/rdonlyres/78D715EA-EC50-4AD1-82D1-1CAC544F5D30/0/DOEFOOTPRINTSConsolidatedVersion2011_FINAL.pdf).

The proposal will not change the amount of space which is currently available to P.S. 38 and is not expected to impact instructional programming, extra-curricular offerings or partnerships at either P.S. 38 or Harlem Prep. P.S. 38’s current allocation of full-size, half-size, quarter-size, and administrative rooms will remain the same through all years of this proposal.

Several commenters asserted that the building is already full and that the co-location proposal will result in overcrowding at M121, citing utilization rates in excess of 100%. Though the building utilization is and will remain in excess of 100% once DREAM moves out and Harlem Prep moves in, it should be noted that the current and projected utilization rates reported in the EIS posted on February 28, 2014 are likely overstated. They do not account for 1) the fact that the building utilization rate of M121 will likely decrease due to a middle school, Harlem Prep, being co-located in the building, and 2) the fact that rooms may be programmed for more efficient or different uses than the standard assumptions in the utilization calculation.

As described in more detail in the amended EIS, a building’s target utilization rate is calculated by dividing the aggregated enrollment of all school organizations in the building by the aggregated “target capacities” of those organizations. Each school organization’s “target capacity” is calculated based upon the scheduled use of individual rooms as reported by principals during an annual facilities survey, the DOE’s goals for maximum classroom capacities (which are lower than the United Federation of Teachers (“UFT”) contractual class sizes and differ depending on grade level), and the efficiency with which classrooms are programmed (i.e., the frequency with which classes are scheduled in a given classroom). According to the 2012-2013 Blue Book, building M121 had a target capacity of 416.

According to the February 28, 2014 EIS, M121’s projected utilization rates based on the 2012-2013 target capacity for the 2013-2014, 2014-2015 and 2015-2016 school years are 127%, 110%-138%, and 119%-151%, respectively.

However, because these utilization rates are based on the 2012-2013 target capacity, which assumes that the components underlying that target capacity (scheduled use of classrooms, maximum classroom capacity, etc.) remain constant, they provide only an approximation of a building’s usage. Each of the factors underlying target capacity may be adjusted by principals from year to year to better accommodate students’ needs.

In response to concerns regarding the projected building utilization rate for M121 in the 2015-2016 school year as reported in the EIS posted on February 28, 2014, the SCA re-calculated the target capacity of M121 based on the grade levels to be served by Harlem Prep beginning in that school year. The SCA estimates that M121 will have a target building capacity of 590 once Harlem Prep is co-located in the building in the 2015-2016 school year. The increase in the building’s target capacity from 416 to 590 is

primarily the result of the difference in grade levels served in M121 during the 2012-2013 school year when compared with the 2015-2016 school year. M121 will serve fewer elementary grade levels and more middle school grade levels once Harlem Prep moves into the building. The target capacity of classrooms used for middle school grades (28 students) is higher than the target capacity of classrooms used for early childhood grades (20 students). In addition, cluster rooms allocated to elementary and K-8 schools do not generate capacity. Therefore, the 2012-2013 building capacity for M121 does not include seats from allocated cluster rooms. Because middle schools are not allocated cluster rooms, all rooms used by a middle school are included in the calculation of a building's target capacity. Based on the SCA's updated estimate of M121's target capacity, the 2015-2016 projected building utilization rate is 84%-107%.

Furthermore, charter school enrollment plans are also frequently based on larger class sizes than target capacity, contributing to building utilizations above 100% while not impacting the utilization of the space allocated to the traditional public school. It is worth noting that the BUP reflects that all schools will receive their adjusted baseline and/or baseline allocations of space in M121 under this proposal. This information indicates that there is sufficient space for all schools to meet the needs of their respective students.

P.S. 38 currently offers Integrated Co-Teaching ("ICT") classes, Self-Contained ("SC") special education classes, and Special Education Teacher Support Services ("SETSS") along with English as a Second Language ("ESL") services. With respect to concerns that the proposal will impact P.S. 38's ability to provide individualized instruction and other types of special education services, it is worth noting that the Instructional Footprint takes into account the number of self-contained and bridged sections offered by a given school to ensure that the school is allocated appropriate space for its students with special needs. As indicated in the BUP associated with this proposal, if this proposal is approved, all schools in the M121 building will be allocated enough space to meet their instructional needs as identified by the Footprint. Furthermore, the EIS provides that the existing ICT, SC, and SETSS classes will not be affected by this proposal, and students with disabilities will continue to receive mandated services in accordance with their Individualized Education Programs ("IEPs"). Guidance regarding the programming of spaces is available for Principals through various experts including the Office of Space Planning, network leaders, and – in special circumstances – the Campus Squad.

The DOE's engagement process now also includes an implementation meeting for proposals that are approved by the PEP. If the proposal to extend the co-location of DREAM and subsequently co-locate Harlem Prep in M121 is approved, the principals of P.S. 38, Harlem Prep, and DREAM will meet together to share and plan how best to share the building for the benefit of all students. The Office of Space Planning will facilitate and where appropriate, suggest efficient and effective ways to program space so that principals are able to offer enrichment programming (such as arts or music) and ensure that related services are provided in appropriate spaces.

Comment 12a concerns the use of the gym at M121.

The proposed shared space schedule included in the BUP demonstrates that the shared spaces in the building can be allocated in a manner that is both equitable and feasible based on the projected enrollments for each co-located school, current space allocation plans, current lunch schedules, the total capacity of each shared space, the grades served and the number of sections served by each of the co-located schools, and the start and end times of the school day. Furthermore, where possible, the proposed

schedule maintains schools' current allocations of time for each shared space to minimize disruption. Under the proposed shared schedule, DREAM and P.S. 38 are each allocated four hours per day in the gym. Given that the gym has a capacity of 350 students, P.S. 38 has been allocated sufficient time to ensure that its 283 students receive their mandated gym instruction. The final shared space schedule will be collaboratively drafted by the Building Council if the proposed co-location is approved by the PEP.

To the extent there are concerns about the scheduling of the gym during the current school year, the Building Council may modify the schedule to accommodate each school's programmatic needs in a feasible and equitable manner. If conflicts emerge and progress is impaired, the Building Council shall follow the dispute resolution procedures outlined in the Campus Policy Memo available at the following link: <http://schools.nyc.gov/community/campusgov>. These procedures describe progressive stages of dispute resolution support available for Building Councils via the network leader and the Office of Campus Governance. Additional support is provided to high needs campuses in the areas of budget, operations, and campus governance through the Campus Squad and Division of Operations.

Additionally, in buildings like M121 that house a charter school, there is also a Shared Space Committee, which meets at least four times per year, and includes the principal, a teacher, and a parent from each co-located 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, a teacher, and a parent from each co-located school. 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.

Comment 12c concerns the impact of the proposal on safety in M121.

It should be noted that M121 already houses elementary and middle school grades, as DREAM is already serving students in sixth grade at M121. There are many successful examples of K-8 buildings in New York City. At the joint public hearing for the related proposal to extend the co-location of Harlem Prep in M099 for the 2014-2015 school year, several commenters from multiple schools in M099 commented on the positive working relationship that Harlem Prep has with the other co-located schools. The Public Comment Analysis for that proposal is available at <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2013-2014/SchoolProposalsMay62014PEP> (see comments 4a, 5a-b, 6a, 7a-b, 10a, 12b, 15a, 18b, and 18e). The DOE expects that a collaborative and positive working relationship between school leaders and school students will continue at M121.

Pursuant to Chancellor's Regulation A-414, every campus is mandated to form a School Safety Committee, which is responsible for developing a comprehensive School Safety Plan that defines the normal operations of the site and what procedures are in place in the event of an emergency. The School Safety Plan is updated annually by the Committee to meet the changing security needs, changes in organization and building conditions and any other factors; these updates could also be made at any other time when it is necessary to address security concerns. The Committee will also address safety matters on an ongoing basis and make appropriate recommendations to the Principal(s) when it identifies the need for additional security measures.

Comment 14 concerns the process for revising the existing BUP under recent amendments to the Education Law.

The DOE is in the process of reviewing the new amendments. In the meantime, the DOE has been working, and will continue to work with all impacted M121 schools to ensure that the proposal meets their respective students' needs.

Comment 12d concerns the community engagement process associated with this proposal.

Prior to the posting of the EIS and BUP, members of the DOE's Office of District Planning communicated with the schools in building M121 on several occasions about the development of this proposal. In December 2013, the DOE advised P.S. 38 leadership that the construction of DREAM's non-DOE operated facility was delayed. In late February, the DOE advised P.S. 38 and DREAM that it would likely propose to extend DREAM's co-location in M121 to accommodate this delayed construction.

The DOE issued notice of the proposal on February 24, 2014, posted the EIS and BUP on February 27, 2014 and distributed copies of these documents to the P.S. 38 SLT and CEC 4, among others. The EIS and BUP were also made available to the staff, faculty and parents at P.S. 38, DREAM, and Harlem Prep, on the DOE's website, and in each school's respective main office. In addition, the DOE dedicated a proposal-specific email address and voicemail to collect feedback on this proposal. Furthermore, all schools' staff, faculty and parent communities were invited to the community meeting and joint public hearing to provide further feedback on the proposal.

The DOE strives to continually improve our engagement process, working with stakeholders to create new protocols for opening and co-locating schools. For example, all proposals for significant changes in school utilization (including the proposal to extend DREAM's co-location in M121) now involve a walkthrough and visit from a member of the DOE's senior leadership. Thus, in addition to the joint public hearing, M121 stakeholders had the opportunity to discuss their concerns and questions about the proposal during the April 7, 2014 community meeting and walkthrough of the building. The DOE representatives at each of those meetings either responded in person or via email to questions and concerns from school leaders and community members.

Additionally, in response to concerns about the projected utilization rates at M121 that were raised during the May 29, 2014 PEP meeting, the DOE facilitated a further walkthrough of the building on June 9, 2014 for PEP members and provided updated information regarding the 2015-2016 projected building utilization rate.

Comments 1a-b, 3, 4, 5, 6, and 7 express support for the proposal and do not require response.

Comments 2a, 7, and 9 describe the positive relationships and goodwill of P.S. 38, DREAM, and Harlem Prep and do not require a response.

The DOE commends the M121 schools' cooperation and collaboration.

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

No changes have been made to this proposal.