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Chancellor

Public Comment Analysis

Date: June 18, 2013

Topic: **The Proposed Co-Location of Grades 5-8 of Success Academy Charter School – Bronx 2 (84X494) with Existing Schools J.H.S. 22 Jordan L. Mott (09X022) and Bronx Writing Academy (09X323) in Building X022 Beginning in 2014-2015**

Date of Panel Vote: June 19, 2013

Summary of Proposal

On March 7, 2013, the New York City Department of Education (“DOE”) issued an Educational Impact Statement (“EIS”) and Building Utilization Plan (“BUP”) describing a proposal to co-locate grades five through eight of Success Academy Charter School – Bronx 2 (84X494, “SA – Bronx 2”) in building X022 (“X022”), located at 270 East 167th Street, Bronx, NY 10456 in Community School District 9 (“District 9”) beginning in the 2014-2015 school year. SA – Bronx 2 is an existing public elementary charter school that currently serves students in kindergarten through third grades in building X055 (“X055”), located at 450 Saint Paul’s Place, Bronx, NY 10456, also in District 9, where it is co-located with P.S. 55 Benjamin Franklin (09X055, “P.S. 55”), an existing zoned elementary school serving students in kindergarten through fifth grades and offering a pre-kindergarten program. The Panel for Educational Policy (“PEP”) previously approved a proposal for SA – Bronx 2 to serve kindergarten through fourth grades in X055.

On May 10, 2013, the DOE issued an amended EIS which provided additional information regarding the impact that this proposal may have on outside organizations that currently provide services in the X022 building.

Success Academy Charter Schools (“SACS”) is a charter management organization that currently operates 12 public elementary charter schools and 2 public middle charter schools in New York City, including SA – Bronx 2. The State University of New York (“SUNY”) has authorized SA – Bronx 2 to serve students in kindergarten through fifth grades. SA – Bronx 2’s current charter expires on February 17, 2015, and SA – Bronx 2 intends to apply to SUNY to renew its charter and to expand SA – Bronx 2’s grade span to serve grades kindergarten through eighth. Should SUNY deny SA – Bronx 2’s request to expand to serve kindergarten through eighth grades, the school’s fifth grade will then be sited at X022 and the DOE will consider alternate options for the utilization of the remaining space in X022.

If this proposal is approved, SA – Bronx 2’s fifth grade will be sited in X022 beginning in the 2014-2015 school year. If SUNY approves SA – Bronx 2’s proposed charter revision to expand the grades it

serves, SA – Bronx 2 will then add one grade each year until it is fully phased into X022 in 2017-2018 and serves students in grades five through eight in the building. SA – Bronx 2 will be co-located in X022 with J.H.S. 22 Jordan L. Mott (09X022, “J.H.S. 22”), an existing district middle school that serves students in grades six through eight, and Bronx Writing Academy (09X323, “Bronx Writing”), an existing district middle school that serves students in grades six through eight. The X022 building also houses BronxWorks, a community-based organization that currently provides services to students at both J.H.S. 22 and Bronx Writing, as well as the Learning through an Expanded Arts Program (“LeAp”).

SA – Bronx 2 enrolls kindergarten through third-grade students through a lottery process, giving preference to students who reside in District 9 and sets aside a certain percentage of seats for English Language Learner (“ELL”) students. Enrollment and admission details for SA – Bronx 2 are described in greater detail in Section III.A of the EIS.

SACS has also been authorized by SUNY to operate six new public elementary charter schools starting in 2013-2014. The four SACS elementary schools that received a Progress Report for the 2010-2011 and 2011-2012 school years received an overall grade of A.

According to the 2011-2012 Enrollment, Capacity, Utilization Report (the “Blue Book”), X022 has the capacity to serve 1,500 students. In 2012-2013, the building is serving 1,151 students, yielding a building utilization rate of 77%. Under this proposal, in 2017-2018 the X022 building is projected to serve a total of approximately 1,153-1,304 students from SA – Bronx 2, J.H.S. 22, and Bronx Writing collectively, yielding an estimated building utilization rate of 77%-87%.

The DOE supports SA – Bronx 2’s placement in X022 and anticipates that the school will continue to provide excellent educational opportunities for students. This proposal is intended to increase the number of high-quality middle school seats in District 9 and to allow SA – Bronx 2 to continue serving its students through middle school.

A copy of the amended EIS and BUP pertaining to this proposal can be found in the main offices of J.H.S. 22 and Bronx Writing and online here:

<http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2012-2013/May2013Proposals.htm>.

Summary of Comments Received at the Joint Public Hearing

A joint public hearing regarding this proposal was held at the X022 building on April 9, 2013. At that hearing, interested parties had an opportunity to provide input on the proposal.

Approximately 160 members of the public attended the hearing, and 38 people spoke. Present at the meeting were: J.H.S. 22 Principal Edgar Lin; J.H.S. 22 School Leadership Team (“SLT”) representatives Magaly Cordova, Jennifer Perez, Douglas Satran, Yolanda Jennings, Hoai Vuong, and Michele Parsons; Bronx Writing Principal Kamar Samuels; Bronx Writing SLT representative David Levitt; Community Education Council 9 (“CEC 9”) President Marilyn Espada, along with CEC 9 representative Nora Mercado; State University of New York Representative Elizabeth Genco; New York State Assemblywoman Vanessa Gibson; and DOE representatives Richard Larios, Stephanie Crane, Thomas Samaris, and Henry Bluestone Smith from the Division of Portfolio Planning.

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

1. A representative from Assemblywoman Vanessa Gibson's office stated that she was there to learn about the proposal and to hear the issues that parents raise so that Assemblywoman Gibson could work with members of the community to address their concerns.
2. CEC 9 President Marilyn Espada spoke in opposition to the proposal. After commending the J.H.S. 22 band for their performance and noting that she was a graduate of the school, she objected to the proposal on several grounds, including:
 - a. Her belief that co-location is a violation of privacy for existing schools and should not be used by the DOE.
 - b. Her belief that charter schools only accept higher-achieving students, thus setting up district schools to fail.
 - c. Her belief that this co-location may have been proposed in retaliation for J.H.S. 22's failure to implement the Turnaround proposal from last year.
3. J.H.S. 22 Principal Edgar Lin spoke in opposition to the proposal. He stated that the proposed co-location would result in a loss of space for his school which would limit the possibilities of success for students currently attending school at X022, and which would prevent future students from the local community from attending school at J.H.S. 22. In particular, he raised concerns about J.H.S. 22 losing access to the computer lab and the band room.
4. Members of the J.H.S. 22 SLT and the Bronx Writing SLT made a joint presentation which raised several arguments in opposition to the co-location, including:
 - a. The claim that the charter school would not serve students from the local community and would serve fewer high-need students than the existing schools in X022. In particular, the SLTs asserted that in the 2011-2012 school year, approximately 16% of J.H.S 22's students and 18% of Bronx Writing's students received special education services, while only about 8% of SA-Bronx 2's students received special education services. The SLTs further asserted that in the 2011-2012 school year, approximately 29% of the students at J.H.S. 22 and 28% of the students at Bronx Writing were classified as ELLs, while only 11% of SA-Bronx 2's students were classified as ELLs.
 - b. The contention that there would not be enough room in the building to adequately meet the needs of all students.
 - c. The assertion that the enrollment reduction at J.H.S. 22 is understated in the EIS.
5. Assemblywoman Gibson spoke in opposition to the proposal and offered her support to the school community at X022. She believes that the proposed charter school would not serve students from the local community and would not serve an adequate number of special education students, which in turn would limit the community's access to public education.
6. One commenter, who works with the Learning through an Expanded Arts Program ("LeAp") at X022, stated her belief that charter schools violate the rights of special education students and that, instead of seeking to co-locate in public school buildings, charter schools should use the money they spend on marketing and CEO compensation to find space in private facilities.
7. Several speakers, including current and former students as well as faculty members at X022, spoke in general opposition to the proposal. These speakers highlighted the positive

experiences and success stories that take place at J.H.S. 22 and Bronx Writing and felt that those successes would be jeopardized by the proposal.

8. A J.H.S. 22 alumnus stated that the co-location of a charter school would interfere with the family-oriented atmosphere in the building, and that it was unfair that the charter school would only serve “good students.”
9. Several commenters spoke against the proposal on the grounds that it would lead to overcrowding in the building.
10. Several commenters also spoke against the proposal on the grounds that the proposed charter school would not serve students from the local community.
11. A teacher at Bronx Writing spoke against the proposal on the grounds that it would have a negative impact on the environment and survey scores for the existing schools at X022, which would negatively impact the schools’ Progress Report grades. This commenter also asserted that the proposed charter school would not serve students from the local community.
12. Several commenters affiliated with the Girl Scouts Council of Greater New York spoke in opposition to the proposal because they believe it would lead to a loss of available space and a strain on resources in the building, which would limit the ability for the Girl Scouts to maintain the scope and impact of their existing enrichment program in the X022 building.
13. One commenter, speaking in opposition to the co-location proposal, alleged that Success Academy Charter Schools stop accepting students at a given age once they can see students’ testing potential, and that they counsel students with unique needs out of their schools, which sets district schools up to fail.
14. One commenter, speaking in opposition to the co-location proposal, stated that the new principal at J.H.S. 22 should be given time to accomplish his objectives before the DOE co-locates an additional school in the building. In addition, the commenter claimed that because there are other schools in the area that have more available space than X022, the DOE must withdraw this co-location proposal.
15. Several commenters spoke in opposition to the co-location proposal and asserted that existing programs at J.H.S. 22 and Bronx Writing would have to be cut as a result of this co-location and that the co-location would upset stability in X022.
16. One commenter, speaking in opposition to the co-location proposal, stated his belief that J.H.S. 22 is being attacked by successive rounds of school intervention proposals which are designed to benefit for-profit charter schools and corporate interests.
17. Several commenters suggested that Success Academy Charter Schools should look for space in private facilities and that co-locations have a negative impact on students.
18. Several former students from J.H.S. 22 spoke in opposition to the co-location proposal on the grounds that, when they attended J.H.S. 22, they were served well by the availability of extra rooms, which allowed staff members to provide them with individualized instruction.

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

No written or oral comments were received.

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

Comments 2(a), 6, and 17 all voice general opposition to co-locations and propose that charter schools should be located in private space.

Roughly half of all DOE schools in New York City share space in a building. Co-locations allow us to use our limited facilities efficiently while simultaneously creating additional educational options for New York City families. This is necessary because we have scarce resources and a demand for more options.

As stated in the EIS, the proposed co-location is not expected to impact future student enrollment, instructional programming, or the admissions process for the schools currently co-located in X022.

The DOE is confident that if this proposal is approved, the leaders of J.H.S. 22, Bronx Writing, and SA – Bronx 2 will be able to create a collaborative and mutually respectful environment for all students, staff, and faculty members in the X022 building.

Comments 2(b), 3, 4(a), 5, 6, 8, 10, 11, and 13 all contend that SA-Bronx 2 will not serve students from the local community. These comments further claim that the charter school will not admit low-performing students, students with disabilities, or English Language Learner (“ELL”) students.

Under the Charter Schools Act, charter schools are prohibited from restricting admission based on, among other things, intellectual ability, measures of aptitude (like test scores) or disability. If public charter schools, like SA-Bronx 2, receive more applicants than available seats, they must run a lottery to admit students. Lotteries select students randomly from among the applicant pool. In contrast, district public schools may exercise screened or limited unscreened or zoned admissions methods, which limit the eligibility of students to enroll. For example, screened schools are able to select their students based on academic achievement, attendance, teacher recommendation, and admissions tests. In fact, J.H.S. 22 offers a screened program for Leadership Development, which selects applicants based on a review of attendance and punctuality records, as well as test scores. Zoned schools admit students based on home address, which is frequently correlated with income and parental education levels.

Furthermore, charter schools serve the communities in which they are located. Charter school lotteries give preference to students who live in the Community School District in which the charter school is located. 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. Charter schools which fail to meet the special education and/or ELL targets set by their authorizer are subject to having their renewal applications rejected.

Consistent with the above, the admissions policies for SA – Bronx 2 are designed to ensure that the school serves a population of students which is representative of all students in the District 9 community. SA – Bronx 2 provides the following lottery preferences: (1) siblings of current or accepted students, (2) ELL students, and (3) applicants who reside within District 9. SA – Bronx 2 also sets aside a certain percentage

of seats for ELL students that is relatable to the average ELL percentage at traditional public elementary schools within the City and/or District 9.

Contrary to assertions that SA-Bronx 2 does not serve students with disabilities, ELL or Title I students, the school serves the full range of eligible students who enter the charter lottery, regardless of prior educational achievement or special education status, and it provides a specific priority to attract ELL students.

Several commenters contended that SA – Bronx 2 does not serve comparable numbers of these students relative to J.H.S. 22 and Bronx Writing to the detriment of the district schools’ performance. Though these commenters relied upon third party data for SA – Bronx 2 which the DOE is unable to confirm, as noted in the EIS, SA – Bronx 2 currently serves a student body that includes students with IEPs (13%), ELL students (11%), and students who qualify for free or reduced lunch (86%). In addition, it should be noted that discrepancies in the number of high needs students served by schools (to the extent they exist) are accounted for when the DOE evaluates schools. 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 their ELL and special education students well, and a school is not advantaged by having a lower enrollment of ELL and special education students.

Comment 11 asserts that Success Academy Charter School co-locations lead to a drop in the environment and overall grades on the annual Progress Reports of the co-located district schools.

This claim is not supported by the data. Schools that are co-located with Success Academy Charter Schools do not display any consistent trend in terms of environment or overall grades on their Progress Reports.

For example, the commenter made reference to the co-location of Success Academy – Bronx 1 in the X183 building, and noted that one of the co-located schools – M.S. 203 – saw it’s environment grade go from a “B” to a “C” in the first year of co-location. However, in that same year, SA – Bronx 2 (the school being considered for co-location at X022) opened in the X055 building where it is currently co-located with P.S. 55. The environment grade for P.S. 55 remained unchanged that year and the school’s overall Progress Report grade improved from a “C” to a “B.”

A review of various Success Academy Charter School co-locations reveals that the co-located district schools have improved, declined, and remained unchanged in terms of both their environment and their overall Progress Report grades during the first year of co-location. This suggests that these schools’ Progress Report grades are not necessarily impacted by a co-location, but rather fluctuate for a variety of reasons, like all other schools in New York City.

Comments 2(c) and 16 contend that the X022 building has been selected as a site for a charter school co-location this year because the Turnaround intervention was not implemented at J.H.S. 22 as originally planned.

As discussed in the Revised Under-utilized Space Memorandum (as of November 20, 2012), on a yearly basis, the Office of Portfolio Development conducts a transparent process to publish a list of under-utilized buildings by applying consistent criteria to all school buildings across the city. Buildings that have, or are projected to have, 300 or more seats available in the next one to two years according to the Blue Book may be eligible for a co-location, among other potential changes in school utilization. The decision to propose a co-location at a particular school is based on a number of factors, including: the

amount of space available upon a closer, in-person evaluation of the building; and/or, feedback from SLTs; and/or, local enrollment needs; and/or, the need for new school options; and available funding (where applicable). A copy of the Revised Under-utilized Space Memorandum describing in detail the process for identifying under-utilized schools is available at:

http://schools.nyc.gov/NR/rdonlyres/6D8EA76A-82FA-4740-9ED1-66BCABEE8BFB/134525/UnderutilizedSpaceMemorandum112012_vFINALforprint.pdf.

Based on the amount of space available in the building, as well as the above-described factors, the X022 building was identified as a site for a potential co-location. The nature of the proposed co-location reflects the DOE's effort to improve the size and scope of high-quality educational options in District 9.

The fact that one of the co-located schools in X022 was proposed for Turnaround last year was not a factor in the planning process of this proposal. A number of other schools that were proposed for Turnaround last year (including I.S. 339, another middle school in District 9) have not been proposed for phase-out, co-location, or any other significant change in school utilization despite the fact that Turnaround was not ultimately implemented.

Comments 3, 4(b), 9, 12, 15, and 18 express concern that the reduction in available space resulting from the co-location will adversely impact students at existing schools in the X022 building.

While the co-location will reduce the amount of excess space which is currently available to J.H.S. 22 and Bronx Writing, as stated in the EIS and BUP, the co-location is not expected to impact instructional programming, extra-curricular offerings or partnerships at either of these schools. J.H.S. 22 and Bronx Writing will continue to receive their baseline (or adjusted baseline, as applicable) Footprint allocation of rooms throughout the course of the phase-in of SA-Bronx 2.

Several commenters asserted that the building is already full and that the co-location proposal will result in overcrowding at X022. However, the EIS indicates that X022 is currently only operating with a building utilization rate of 77%, which suggests that there is space to serve additional students. In conjunction with J.H.S. 22's previously planned enrollment reduction, the phase-in of SA-Bronx 2's grades 5-8 is only anticipated to yield a projected utilization rate of between 77% - 87%. This suggests that the X022 building is not currently overcrowded and that there will be enough space in the building for all three schools to meet the needs of their respective students.

Both J.H.S. 22 and Bronx Writing currently offer Integrated Co-Teaching ("ICT") classes, Self-Contained ("SC") special education classes, and Special Education Teacher Support Services ("SETSS"). With respect to concerns that the co-location will impact J.H.S. 22'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. As indicated in the BUP associated with this proposal, if this proposal is approved, all schools in the X022 building will continue to be allocated enough space to meet their instructional needs as identified by the Instructional 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").

As to Principal Lin's inquiry regarding J.H.S. 22's continued access to specific rooms in the X022 building, such as the music room and computer lab, it should be noted that the assignment of specific rooms and the location for each organization in the building will be made in consultation with the principals of each school and the Office of Space Planning if the proposal is approved. To the extent that

the assignment of rooms does not meet the programmatic needs of a school, the Building Council may discuss alternative arrangements (for additional information, please see the BUP associated with this proposal for a description of the Building Council’s dispute resolution process).

With regard to the availability of space for the Girl Scouts Council of Greater New York, which currently provides support services for students at J.H.S. 22, this organization is not listed with the DOE’s Division of Operations as a community-based organization in the building and therefore has not been allocated space under this proposal. As with all schools in the city, many of which work closely with various community-based organizations, the school leaders at J.H.S. 22 may choose to continue to allocate space to the Girl Scout program during the school day using classroom space that is part of J.H.S. 22’s baseline allocation, or it may work with the Building Council to set aside space for this program using excess rooms elsewhere in the building.

Comment 4(c) contends that the enrollment reduction planned for J.H.S. 22 has been understated in the EIS.

As disclosed in the EIS, the DOE planned the enrollment reduction at J.H.S. 22 during the 2011-2012 school year to be implemented beginning September 2013, and the reduction will take place regardless of whether the proposal to co-locate grades five through eight of SA – Bronx 2 in the X022 building is approved.

The reduced enrollment will allow J.H.S. 22 to improve its students’ performance by focusing on supporting the needs of a smaller student body. Once the enrollment reduction has been completed, J.H.S. 22 will serve approximately 243-273 fewer students than it currently does. The size of the enrollment reduction as described in the EIS is based on the school’s audited enrollment register which is taken in the fall of each school year (the “audited register”). To the extent that the commenter suggests that the anticipated impact of the enrollment reduction described in the EIS is inaccurate because J.H.S. 22’s enrollment increased following the release of the audited register, it should be noted that this increase was minimal (only three students), and does not significantly alter the impact of the enrollment reduction.

The EIS further discloses that J.H.S. 22’s budget will decrease with the reduction in enrollment, and that the school’s personnel needs could decrease, as well. It should be noted that such impacts are caused by the previously planned enrollment reduction, not by the proposed co-location of SA – Bronx 2.

Comments 7 and 8 describe students’ positive experiences at J.H.S. 22 and Bronx Writing. Commenters stated that they felt that it would be difficult for these schools to continue providing such experiences to students if the co-location proposal were approved.

A number of speakers at the public hearing shared personal stories of success and described the supportive and familial environment that J.H.S. 22 and Bronx Writing have created through collaboration. The student performances at the hearing also reflected a dynamic learning environment in the building. The DOE commends the accomplishments of the students and staff at J.H.S 22 and Bronx Writing and does not anticipate that the co-location will impact the ability of these schools to offer a wide range of programs and support the needs of all their students.

As noted in the response to Comment 11, the co-location of Success Academy Charter Schools in DOE buildings has not demonstrably led to a decline in achievement at other co-located school organizations. As described in the EIS and BUP, there is sufficient space in the building to support the proposed co-location, and this proposal is not expected to impact future student enrollment, instructional programming, or the admissions process for the schools currently co-located in X022.

Comment 14 proposed that the new principal at J.H.S. 22 should be given time to accomplish his objectives before a new school is co-located in the building.

The DOE acknowledges that J.H.S. 22 has recently seen a change in leadership. However, the DOE does not anticipate that this co-location proposal will limit the new school leader's ability to build on and strengthen the existing learning culture at J.H.S. 22.

Comment 16 asserted that this co-location is motivated by a drive to support for-profit charter schools.

Success Academy Charter Schools are governed by a not-for-profit board of trustees. There are no for-profit charter schools in operation in New York City.

Changes Made to the Proposal

No changes have been made to the proposal.