



Public Comment Analysis

Date: February 1, 2011

Topic: The Proposed Temporary Grade Expansion of the Co-Location of Harlem Success Academy 1 with P.S. 149 Sojourner Truth (03M149) and P811M (P811@M149/M207), a District 75 School, in M149/M207 for 2011-2012

Date of Panel Vote: February 1, 2011

** The Public Comment Analysis was amended to include more public comments received prior to the deadline which could not be included in the Analysis posted on January 31, 2011.*

Summary of Proposal

Harlem Success Academy (84M351, “HSA1”) is an existing public charter school located at 34 West 118th Street in District 3. It currently serves students in Kindergarten through fifth grade. HSA1 is co-located with P.S. 149 Sojourner Truth (“P.S. 149”) and P811M Mickey Mantle School (“P811M”) in Tandem Buildings M149/M207. Co-location refers to situations where multiple schools are located within a single school facility, often sharing certain common rooms and outdoor recreation areas. In this case all three co-located schools share the cafeteria, auditorium, gymnasium, and outdoor space at the tandem buildings. Tandem buildings are two separate classroom buildings with separate entrances, which are joined by a central core containing a shared gymnasium, auditorium, and cafeteria.

P.S. 149 is a zoned elementary school that enrolls students in Kindergarten through eighth grade and also offers a Pre-Kindergarten program. P811M is a District 75 program that serves students with disabilities in grades Kindergarten through eighth grade and also offers a Pre-Kindergarten program. P811M serves students in multiple locations. The community-based organization (“CBO”) Harlem Children’s Zone (“HCZ”) also has rooms in M149/M207 where it operates a Pre-Kindergarten program.

This is a proposal for a one-year grade expansion for HSA1 to be temporarily sited within the M149/M209 tandem building. If this proposal is approved, existing fifth graders at HSA1 would become sixth graders in the 2011-2012 school year. These sixth grade students would temporarily be served in HSA1’s current location.

HSA1 applied to the New York State Education Department (“SED”) to expand the grades that it offers to include middle school grades six through eight. SED voted to approve HSA1’s grade expansion proposal in December 2010.

The Department of Education (“DOE”) proposes to allow HSA1 to expand to add grades six through eight, to enroll sixth grade students in the current HSA1 location for the 2011-2012 school year, and to relocate grades five and six to a different building beginning in the 2012-2013 school year.

Summary of Comments Received at the Joint Public Hearings

Two joint public hearings regarding this proposal were held: one at HSA1 on January 10, 2011, and one at P.S. 149 on January 20, 2011. At the hearings, interested parties had an opportunity to provide input on the proposal.

On January 10, approximately 110 members of the public attended the hearing, and 15 people spoke. Present at the meeting were: District 3 Superintendent Sara Carvajal; P.S. 149 Principal Kayrol Harper and School Leadership Team representative Sonja Hampton; Frederick Douglass Academy II Principal Osei Owusu-Afriye and School Leadership Team representative Julius Tajiddin; P811M Principal Barry Daub; Director of External Affairs of Harlem Success Academy 1 Jenny Sedlis; Network Leader of Frederick Douglass Academy II Derek Smith; Wadleigh School Leadership Team representative Anthony Burgess; Citywide Council on Special Education representatives Ellen McHugh and Jaye Bea Smalley; and Citywide Education Council 3 President Noah Gotbaum; and Division of Portfolio Planning representative Elizabeth Rose.

On January 20, approximately 155 members of the public attended the hearing, and 39 people spoke. Present at the meeting were District 3 Superintendent Sara Carvajal; P.S. 149 School Leadership Team representatives Casey Bower and Sonya Hampton; FDA II School Leadership representative Julius Tajiddin; Wadleigh Secondary School Leadership Team representative Anthony Klug; Director of External Affairs of Harlem Success Academy 1 Jenny Sedlis; P811M Assistant Principal Sam Slater and School Leadership Team representative Caren Gandelman; Citywide Education Council 3 President Noah Gotbaum and representatives Jimmy Brown, Sophia Rahim and Christine Annechino; UFT representative Mike McCourt; and Division of Portfolio Planning representative Elizabeth Rose.

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

1. During the SLT/CEC presentation portion of the Joint Public Hearing on January 20, the following questions were asked:
 - a. Why is P811M considered a separate entity when, in fact, it operates as a part of P.S. 149? Why are the inclusion students from P811M who spend the vast majority of their day in P.S. 149 classrooms not factored into P.S. 149’s overall population?
 - b. The EIS assumes that P.S./M.S. 149 enrollment numbers are remaining stable when, in fact, it has been growing. What method does the DOE use to calculate these enrollment numbers?
 - c. If the reason why enrollment numbers are bigger in kindergarten and first grade is due to the fact that the kids are coming from out of the zone and out of the district, has the DOE altered its enrollment policy accordingly in anticipation of lack of space or set up a wait list or notify the community?

- d. Is it suitable for a single room or office to be used for multiple purposes? Is that a suitable learning environment as mandated by laws that oversee IEPs?
 - e. How does the EIS assume that the special education students will not be adversely affected by the expansion when, in fact, their classes will be placed in half-sized rooms?
 - f. Does the DOE take into consideration that special education students need classrooms with a lower ratio between teachers and students when determining the allocation of classrooms?
 - g. Who determines the class size for Success Charter?
 - h. Since charter school expenditures exceeding \$5,000 is to be matched at each of the co-located schools and since the charter school's budget is not transparent, how will P.S. 149 know that it's getting an equal share of the funding?
 - i. If the charter schools make several improvements, costing \$4,999, would that also be matched by the DOE for the co-located schools?
 - j. Is the DOE aware of how HSA1 first came into the P.S. 149 portion of the building five years ago?
 - k. The building currently holds two gyms, one small and one large; currently, P.S. 149 uses the small gym and HSA1 the large one. Do you know who made that decision on utilization? And is that a fair distribution of space when P.S. 149 has far more students than HSA1?
 - l. Is the DOE concerned that the students are currently being taught in hallways, stairwells and closets? Doesn't that indicate that there's not enough space?
 - m. Was the expansion proposal submitted to the State Education Department?
2. P.S. 149 SLT representative Sonja Hampton asserted that the DOE has not properly conducted the Educational Impact Statement process ("EIS") as required by law. She was concerned that the SLT members, P.S. 149 community and parents were not informed about the EIS and did not receive copies with sufficient notice.
 3. P.S. 149 SLT representative Casey Bower also noted that there was no shared space committee and asserted that space at P.S. 149 was taken unfairly from them.
 4. Citywide Education Council 3 President Noah Gotbaum concurred with the SLT representative Sonja Hampton, adding that the principal of P.S. 149 was the only person who the DOE has been communicating with. He also expressed his concern that there is no detailed enrollment plan in the EIS, and expressed the opinion that the footprint that the DOE proposed is antiquated. He also asserted that the DOE does not take into consideration that Wadleigh and other District 3 schools tend to higher percentage of special needs students (including ELLs and IEPs) compared to HSA1.
 5. Citywide Council on Special Education representative Jaye Bea Smalley referred to the EIS, which stated that the school would be at 112 to 114% capacity with the re-siting, and raised safety concerns. She was particularly worried about the effect overcrowding would have on students with disabilities.
 6. Citywide Council on Special Education representative Ellen McHugh urged the hearing attendees to participate in the process and work together.

7. FDA II School Leadership Team Julius Tajiddin expressed his support of CEC 3 and P.S. 149 in protesting the Joint Public Hearing.
8. Harlem Success Academy 1's Director of External Affairs Jenny Sedlis expressed her satisfaction with the HSA1's performance and noted that she was eager to participate in the public review process.
9. Safiya Raheem from the Council Member Inez E. Dicken's Office stated the Council Member's opposition to the expansion and co-location proposals and added that the success of one school cannot be at the expense of another. She also proposed leasing parochial school spaces as an alternative solution.
10. Multiple commenters expressed their opposition to the proposal, noting the disparities between P.S. 149 and HSA1;
 - a. P.S. 149 students have to eat lunch at 10:30 am while the students at HSA1 can eat at normal lunch hour.
 - b. P.S. 149 cannot use the same bathrooms as HSA1.
 - c. There is unequal nutritional offering at the schools.
 - d. There is an unfair allocation of resources that leads to better maintenance of facilities for HSA1.
 - e. HSA1 does not take special education students or students with behavioral issues while P.S. 149 takes all students.
11. Several commenters expressed their dismay that there were "hateful" signs posted up at the schools.
12. Several commenters urged parents to examine the DOE's processes before attacking each other and blaming the Charter School.
13. Multiple commenters expressed their support for the proposal, citing that their children have benefitted from attending HSA1.
 - a. One commenter noted her appreciation for the staff at HSA1 and how great they have been in teaching the students.
 - b. One commenter stressed that HSA1 is also a public school, like P.S. 149, and is providing parents with additional choice for quality education.
14. One commenter expressed the opinion that the expansion would cause segregation and cited Brown vs. Board of Education to discuss the long-term psychological effects of segregation.
15. One commenter said that he had to teach students in a storage room and urged the attendees to think about the psychological effects of such action on students.
16. Multiple commenters noted that every student has a right to excellent education and asserted it would not be fair to share the space at the expense of another school.
17. Several commenters urged attendees to work together and not use "hateful" rhetoric.
18. One commenter raised concerns that both HSA1 and P.S. 149 students are adversely affected by the co-location (i.e. they both share a yard that is designed for early childhood students) and the expansion would worsen the impact.

19. One commenter stated that students shouldn't be treated as numbers, figures, or statistics.
20. In response to the assertion documented at 10(e) above multiple commenters noted that:
 - a. 18% of HSA1's population accounts for students with disability.
 - b. HSA1 hosts many classes that tailor to students with IEPs and behavioral problems.
21. Several commenters raised safety concerns, specifically that;
 - a. The kindergarten students could be adversely affected by the presence of older students.
 - b. The class room size for special education programs would be reduced in half, confining the students and creating an undesirable learning environment.
22. One commenter noted that district 3 schools are in general over utilized at over 100% capacity and inquired what the DOE is proposing to do about overcrowding.

The DOE received additional comments at the Joint Public Hearing which did not directly relate to the proposal.

23. One commenter questioned the qualifications of Cathie Black as a Chancellor.
24. Several commenters also discussed the proposal to re-site and co-locate HSA1 with Wadleigh Secondary School and FDA II.
25. Two commenters expressed their opinion that the school system has transformed into what they characterized as a political entity.

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

26. Approximately 89 comments were received in opposition to the proposal without citing specific reasons and 2 comments were received in favor.
27. One commenter inquired how many ELL and Special Education students attend HSA1.
28. One commenter expressed the opinion that the proposed expansion would hurt P.S. 149 and P811M's ability to serve the students. The commenter also asserted that P.S. 149's growth and success have not been properly recognized.
29. Multiple commenters suggested allocating more resources to existing public schools in the building instead of expanding a charter school.
30. CEC 3 submitted a Resolution titled "CEC 3 Resolution Against Proposed and Future Charter Co-Locations in District 3 Including the Establishment of Upper West Success Academy in the Brandeis High School Complex, and Harlem Success Academy I Middle School at P.S. 149 and Wadleigh Secondary". The resolution asserted the following points:
 - a. District 3 has a range of good to excellent zoned and district schools, all of which require additional resources.
 - b. District 3 has numerous choice schools.
 - c. District 3 has been awarded a federal magnet grant, which attract students from across the district.

- d. DOE's calculations project fewer than 300 district-wide elementary and middle school seats available by September 2012.
 - e. DOE has failed to provide long term plan on how to accommodate District 3 students over the next five years.
 - f. Success Charter co-locations have been uniformly terrible.
 - g. Success Charter Schools enroll and educate far lower percentages of the most needy and at risk children including ELLs.
 - h. CEC3 resolved that;
 - i. The PEP denies the votes on co-locations.
 - ii. There be a freeze on Charter co-locations and expansions in District 3 until DOE provides District 3 Community with adequate facilities and resources for existing schools.
 - iii. The Comptroller conduct an audit to reconcile DOE capacity and utilization statistics with experiences and observations of parents, educators, and CECs.
31. Council Member Melissa Mark-Viverito expressed her opposition to the proposals to co-locate charter schools in District 3 based on the lack of long term plan in place, engagement in extensive community dialogue, and development of comprehensive community impact statement.
32. FDA II SLT Chair Julius Tajiddin expressed the SLT's official opposition to the proposal and urged the DOE to withdraw. Following reasons were given:
- a. There is hostility between HSA1 and M149 and co-locating the two schools would not be a good idea.
 - b. M149 cannot fit an expansion of HSA 1.
 - c. District 3 schools are overcrowded and underfunded.
33. One commenter noted that SETTS students take state tests, which is factored into the school's grade that reflects the school's grade level.

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

With regard to comment 1a, inclusion students are considered part of a class section within PS/IS 149. To the extent that during the day an inclusion student is part of a PS/IS 149 class section, the footprint (which is based on the total number of class sections that PS/IS 149 programs) takes them into consideration. There is additional space allocated to P811M for their class sections and for the resource rooms needed to serve the students of P811M. Because the footprint allocates classroom space based on the number of class sections, not the number of students, categorizing a given student as either a PS/IS 149 or P811M student does not affect the footprint allocation unless it requires one organization to program an additional class section to accommodate the student.

With regards to comment 1b, every year, the DOE makes enrollment projection for each school for the following year based on current enrollment numbers, history of returns, and trends for kindergarten enrollment throughout the district. The DOE expects the enrollment of P.S. 149 to remain stable, given the stability of their overall enrollment over the previous three years. This

year, enrollment in the kindergarten class at P.S. 149 was larger than the past year due to the fact that some of the school enrolled some students from out of the P.S. 149 zone or district. The DOE projects that the enrollment numbers at P.S. 149 will remain stable as long as P.S. 149 adheres to the DOE's enrollment policy.

With regards to comment 1c, the DOE has not altered its usual enrollment policy. The enrollment projection process includes sending the initial, data-generated enrollment projection to each school's principal, and maintaining a dialogue with each principal to ensure that the school's projection is as accurate as possible. The enrollment projections set out in the EIS are based on P.S./M.S. 149 continuing to serve two sections per grade school.

With regards to comment 1d, while the Footprint sets forth a baseline space allocation based on the grade levels served by the school and number of classes per grade, school leaders are empowered to make decisions about how to utilize the space allocated to the school. These spaces can be used at the principal's discretion for suitable purposes. Furthermore, the principals are asked to program their schools efficiently so that classrooms can be used for multiple purposes throughout the course of the school day. As for the special education classes, the Footprint allocates a full-size or half-size classroom to accommodate each self-contained special education section. Additionally, the DOE will provide support to the schools to ensure that the schools use the space efficiently in order to maximize capacity to maintain appropriate delivery of special education and related services to students. Where appropriate, school leaders will have an opportunity to draw upon the expertise and guidance of the Office of Special Education, which is dedicated to promoting positive educational outcomes for students with disabilities.

With regard to comments 1e, 1f and 21b, the citywide policy states that self-contained classes with 12 or fewer students may be held in half-size classrooms. The Footprint states that self-contained special education classes with student ratios of 6:1:1, 8:1:1, 12:1:1 and all other may be held in classroom size of 240-499 square feet). Because the proposed room allocation for special education classes abides by the citywide policy governing all DOE schools, the DOE does not anticipate it will impact the ability of P.S. 149 to serve special education students.

With regards to comment 1g, HSA1's charter is authorized by the New York State Education Department. Typically for charter schools, a charter operator submits an enrollment plan to its charter authorizer with a projected number of students and number of class sections. HSA1 currently operates with class sizes of 25-30 students at every grade level.

With regard to comments 1h, 1i, and 10d, before making any capital expenditure or facility upgrade, costing over \$5000, a charter school must first obtain the chancellor's permission. Pursuant to Chancellor's Regulation A-190, all work undertaken and supplies purchased in connection with a single project, even if purchased in multiple installments of less than \$5,000, count towards the \$5,000 limit. If the chancellor approves the expenditure, the DOE must match the dollar amount towards the capital improvements for each of the co-located schools. Pursuant to Chancellor's The DOE's Division of Operations will oversee the capital expenditure approval and matching process.

With regards to comment 1j and 32 (b), given the reality of scarce building space and growing enrollment, it is the commitment of the DOE to utilize building space in the most efficient manner possible. According to the Enrollment-Capacity-Utilization Report (Blue Book), School Building M149 was determined to be an under-utilized building, meaning that the enrollment numbers at the school was below the total capacity of the building. Consequently, the excess space at School Building M149 was allocated to HSA1.

With regard to comment 1k, 18 and 28, the shared space schedule contained in the Building Utilization Plan attached to the EIS is only a proposal, not final. The final shared space schedule will be determined by the Building Council, consisting of the principals from each of the co-located schools in the building. In cases when the schools are unable to agree upon allocation or schedules for space, the DOE will provide support and work with the schools to ensure proper allocation.

The DOE does not anticipate that the proposed temporary expansion of the grades served by HSA1 at M149 by one grade level would adversely impact the students at P.S. 149 or HSA1.

With regards to comment 1L, the Footprint sets forth the baseline number of rooms that should be appropriately allocated to the school based on the grade levels served by the school and the number of classes per grade. The DOE entrusts the principals of each of the co-located schools to make choices about how they utilize allocated space.

With regards to comment 1m, as HSA1's authorizer, the State Education Department approved the expansion of HSA1 to serve additional grades. However, the State Education Department did not approve or disapprove this particular co-location proposal, because the granting of a charter and the decision about the location of the school are independent processes.

With regards to comment 2, as required by applicable law or regulation, the DOE sent out Parent Letters, along with the Notice of Joint Public Hearing, Educational Impact Statement, and Building Utilization Plan, to the principals of each co-located school, requesting that the principals backpack the letter and the notice home with the students, share the EIS with the School Leadership Team and make copies of the EIS available in the main office. The Joint Public Hearing date was determined after consultation the members of the School Leadership Team and the Citywide Educational Council.

With regards to comment 3, schools have until early February to set up their Shared Space Committees.

With regard to comments 4 and 7 regarding the DOE's notifications, the DOE was in contact with CEC 3 and other members of the School Leadership Teams regarding the Joint Public Hearing. Those stakeholders were given input into the date, format, and agenda of the hearing.

With regards to comment 4 regarding enrollment projections, the EIS contains projections for the 2010-2011, 2011-2012, 2012-2013 school years based on the Enrollment-Capacity-Utilization Report (Blue Book). The space allocation, set forth by the Footprint, was confirmed by the

building walkthrough and survey performed on October 28, 2010 by Richard Bocchicchio, Borough Director of Space Planning.

With regard to comments 4 and 5 regarding special education, the DOE takes into consideration the needs of special education students when allocating space. Currently, P.S. 149 serves students requiring special education services, including 41 students currently enrolled in 4 self-contained special education classes. Accordingly, the Footprint allocates half-size classrooms for these class sections. The Footprint was recently revised, so the DOE does not believe it to be antiquated. Although a utilization rate in excess of 100% may suggest that a building will be over-utilized or over-crowded in a given year, this rate does not account for the fact that rooms may be programmed for more efficient or different uses than the standard assumptions in the utilization calculation, as described above. In addition, charter school enrollment plans are 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. The DOE does not anticipate that this proposal will impact the ability of P.S. 149 to meet the needs of its students in all grades.

With regards to comment 9 and 32 (c), the DOE believes that there is existing capacity available in the District. In addition, the DOE does not directly lease space for public charter schools.

With regard to comments 10a and 15, final decisions around lunch time scheduling and utilization of shared spaces are made by the Building Council.

With regards to comment 10b, it is typical in co-locations to designate specific bathrooms for specific school use. This is true in co-locations involving only DOE schools, as well as co-locations with charter schools.

With regards to comment 10c, the nutritional offerings at both schools are comparable since all DOE meals served must meet the DOE's rigorous standards (e.g. no MSG, no more than 30% calories from fat, no deep frying, and use of whole wheat).

With regards to comment 10d about operating budgets, the DOE does not control the formula by which charter schools receive state or district resources.

With regard to comments 10e and 20a regarding the percentage of special education students at HSA1, approximately, 15% of students served by HSA1 have IEPs, compared to 18% at P.S. 149. Furthermore, HSA1 participates in the Universal School Meals Program, which means that students do not need to fill out the annual eligibility form in order to receive free or reduced meals.

With regards to comment 14, currently HSA1 serves a student population consisting of, 73.7 Black, 15.5% Hispanic, 1.9% White, 0.3% Asian or Native Hawaiian/other Pacific Islands, and 0.8% American Indian.

With regards to comment 16, according to the Building Utilization Plan, both co-located schools will be allocated an equitable distribution of available space, and the DOE believes that they will not be adversely impacted by the expansion of HSA1.

With regards to comment 19, a commenter made this point when the DOE representative was trying to explain the DOE formula for calculating building capacity. The mathematical formula is used to accurately predict the amount of space that each school would need to serve its students.

With regards to comment 21a, pursuant to Chancellor's Regulation A-414, every school/campus must have a School Safety Committee, consisting of principals, designees of all other programs operating within the building, U.F.T. Chapter Leader, Custodial Engineer, and In-house School Safety Agent Level III. The committee plays an essential role in the establishment of safety procedures, the communication of expectations and responsibilities of students and staff, and the design of prevention and intervention strategies and programs specific to the needs of the school. The committee will be responsible for addressing safety matters on an ongoing basis and making appropriate recommendations to the Principal(s) when it identifies the need for additional security measures, intervention, training, etc.

With regards to comment 22, schools in Manhattan typically have class size higher than the target and have building utilization rate above 100%. Many elementary school buildings operate safely and effectively above 100% capacity. The DOE anticipates the class sizes at the co-located schools to be over 100% utilization, which will still be comparable to those at the neighboring schools. Long-term, the DOE's Capital Budget provides for the construction of renovation of additional school facilities.

With regards to comment 26, the DOE believes that the EIS cites reasons why the proposal should move forward.

With regards to comment 27, about 15% of HSA1's population are students with IEPs and 1% are English Language Learner Students.

With regards to comment 29, the DOE schools receive funding pursuant to the Fair Student Funding formula, which applies to all schools citywide. This proposal does not have an impact on that formula.

With regards to comment 30 and 31, which express several reasons for opposition and also raise the need for more resources to be allocated to other District 3 schools, and long-term capacity planning for District 3 needs. The co-location of a public charter school does not impact the resources available to other District 3 schools, other than by enrolling students who might have attended those schools. The DOE supports choice over requiring students to attend a school they do not prefer. Co-locating a public charter school that enrolls District 3 students helps address District 3 capacity needs by utilizing previously under-utilized space.

With regards to comment 32 (a), the DOE expects and anticipates HSA1 and P.S. 149 will work collaboratively to build a strong work relationship through the Building Council and Shared Space Committee.

With regards to comment 33, this proposal is not based on the grades set forth in the DOE's School Progress Reports, but is made in response to the growing enrollment at HSA1 and the availability of space in School Building M149.

Comments 6, 8, 11, 12, 13, 17 and 20b do not require a response because they either do not address the proposal, or express unqualified support for the proposal as posted.

Changes Made to the Proposal

No changes in the proposal were made in response to public feedback