

Public Comment Analysis¹

Date: April 16, 2013
Topic: The Proposed Co-location of a New Public Elementary Charter School Success Academy Charter School – Brooklyn 7 (84KTBD) with Existing School P.S. 167 The Parkway (17K167) and New Elementary School (17K532) Beginning in 2013-2014
Date of Panel Vote: April 17, 2013

Summary of Proposal

The New York City Department of Education (“DOE”) is proposing to site Success Academy Charter School – Brooklyn 7 (84KTBD, “SA – Brooklyn 7”), a new public elementary charter school that will serve students in kindergarten through second grade, in building K167 (“K167”) located at 1025 Eastern Parkway, Brooklyn, NY, 11213, in Community School District 17 (“District 17”). If this proposal and the corresponding proposals (described below) are approved, SA – Brooklyn 7 will be co-located in K167 with P.S. 167 The Parkway (“The Parkway”) and 17K532. The Parkway (17K167, “P.S. 167”), is an existing zoned district elementary school that currently serves students in kindergarten through fifth grade and offers two sections of full day pre-kindergarten. 17K532 (“17K532”) is a new zoned district elementary school that the DOE has proposed to site in the K167 building beginning in the 2013-2014 school year. K167 also houses Brooklyn Psychotherapy, a community-based organization (“CBO”) which operates a school-based mental health clinic, and a United Federation of Teachers (“UFT”) office.

In a separate Educational Impact Statement (“EIS”) posted on January 11, 2013, the DOE proposed to gradually phase out and eventually close P.S. 167 because of its low performance and inability to improve quickly to better support student needs. The phase-out of P.S. 167 was approved by the Panel for Educational Policy (“PEP”) on March 11, 2013. P.S. 167 will no longer admit new kindergarten students, will no longer offer first or second grade, and will no longer offer its pre-kindergarten program after the 2012-2013 school year. Therefore, in 2013-2014, P.S. 167 will serve only third-, fourth-, and fifth-grade students. P.S. 167 will subsequently phase out one grade each year until it completes its phase-out and closes in June 2016.

In a separate Educational Impact Statement also posted on January 11, 2013 and revised on March 1, 2013, the DOE proposed to open and co-locate a new zoned district elementary school, 17K532, that will serve students in kindergarten through fifth grade and offer two sections of full day pre-kindergarten at full scale. If that proposal is approved, 17K532 will begin enrolling kindergarten through second grade students in 2013-2014 and will add one grade per year until it is at full scale and serves students in kindergarten through fifth grade in 2016-2017. 17K532 will also offer a pre-kindergarten program beginning in 2013-2014. The revised EIS describing that proposal can be found here: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2012-2013/April2013Proposals.htm>. For the purposes of this EIS, which describes the opening and co-location of SA – Brooklyn 7 in K167, it is assumed that the proposal to co-locate 17K532 will be approved by the PEP. However, if the proposal to

¹ On April 8, 2013 and April 9, 2013, the Brooklyn phone line was not able to receive messages. The e-mail address was operational during the 48-hour period and the DOE has not received any feedback that the public attempted to submit comments via the phone line during that time.

co-locate 17K532 is not approved, this EIS and the accompanying BUP will be revised as necessary.

SA – Brooklyn 7 is a new public elementary charter school that is currently authorized to serve kindergarten through fifth grades. However, this proposal only involves the co-location of SA – Brooklyn 7’s kindergarten through second grades in the K167 building. Success Academy Charter Schools (“SACS”) is a charter management organization (“CMO”) that currently operates 12 public elementary charter schools in New York City. SACS has been authorized by SUNY to operate six new public elementary charter schools starting in 2013-2014. Each of 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 in both years.

If this proposal is approved, SA – Brooklyn 7 will begin serving a total of 125-160 kindergarten and first grade students in 2013-2014 in building K167. In 2014-2015, SA – Brooklyn 7 will grow to serve second grade students, and will serve 195-250 students in kindergarten through second grade. In 2015-2016 and beyond, SA – Brooklyn 7 is projected to serve approximately 210-270 kindergarten through second grade students in K167. The DOE will consider all long-term options to accommodate the future siting of grades three through five of SA – Brooklyn 7. The DOE will also consider long-term options to site the school’s full offering of grades K-5 in one building. Any such proposals will be the subject of a separate EIS. SA – Brooklyn 7 will admit students via its charter lottery application process, with preference given to District 17 residents, and a set aside for English Language Learners, described in more detail below.

According to the 2011-2012 Enrollment, Capacity, Utilization Report (“Blue Book”), K167 has a target capacity of 785 students, but in 2012-2013 the building is serving 450 students, yielding a building utilization rate of 57%. This means that the building is “underutilized” and has space to accommodate additional students. In 2016-2017, once P.S. 167 has completed its phase-out and SA – Brooklyn 7 and 17K532 are at full scale in K167, it is projected that there will be approximately 641-761 students served in K167, thereby yielding an estimated building utilization rate of approximately 82%-97%.

The DOE supports the permanent placement of grades K-2 of SA – Brooklyn 7 in building K167 in order to provide a new educational option for students and families.

Copies of both proposals are available in the main office of P.S. 167, as well as the DOE’s Web site at: <http://schools.nyc.gov/AboutUs/leadership/PEP/publicnotice/2012-2013/April2013Proposals.htm>.

Summary of Comments Received at the Joint Public Hearing

The following comments and remarks were made at the Joint Public Hearing on April 11, 2013 on the proposal:

A joint public hearing regarding this proposal was held at building K167 on April 11, 2013. At that hearing, interested parties had an opportunity to provide input on the proposal. Approximately 35 members of the public attended the hearing and 10 people spoke. Present at the meeting were: Chancellor’s Designee Amanda Cahn; P.S. 167 Principal Marc Mardy; P.S. 174 School Leadership Team (“SLT”) Chair Sandra Maxwell and P.S. 167 Parent Teacher Association (“PTA”) President Tammara Johnson; District 17 Community Education Council (“CEC 17”) President Claudette Agard; State University of New York Charter Institute Representative Maureen Murphy; and Representatives from the DOE’s Division of Portfolio Planning, Meg Barboza and Stephen Demers.

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

1. PTA President Tammara Johnson, stated the following:
 - a. There are many empty seats at this hearing due to the fact that this is the second JPH in this neighborhood in the last few months. It is unfair to expect parents to show up at multiple hearings.
 - b. P.S. 167 has 3 boys' and girls' restrooms on alternating floors. How can 3 schools operate with the lack of restrooms?
 - c. Success has history of isolating itself from other schools. Will P.S. 167 students feel like second class citizens in their own building?
 - d. Students will have to eat breakfast earlier. Gym will be moved to the beginning of the school day.
 - e. The DOE should build students up rather than bring them down.
2. CEC 17 President Claudette Agard; stated the following:
 - a. The CEC opposes the co-location of SA – Brooklyn 7 in the building.
 - b. The co-location lacks thoughtfulness and concern for the educational needs of District 17.
 - c. The co-location will negatively affect surrounding schools.
 - d. Building K167 cannot accommodate 3 schools.
 - e. There is no need or demand for elementary school seats in District 17.
 - f. SA – Brooklyn 7 will recruit students from other community school districts (“CSDs”) because there is no demand in the district for elementary school seats.
 - g. SACS has engaged in questionable practices to gain support and there has been no authentic engagement with parents.
 - h. SACS has not embraced a strong working relationship with co-located schools.
3. SLT Chair Sandra Maxwell stated that
 - a. Charter schools enroll fewer high need students which will have negative impact on students with high needs. How many of “our students” will be accepted through the charter lottery?
 - b. This decision is unfair as it puts undue stress on students preparing for tests.
4. A commenter stated that:
 - a. She was informed through the media that SACS would be one of co-located schools.
 - b. The building cannot accommodate 3 schools and it creates too much chaos for students.
5. A commenter stated that SACS will take over the entire school.
6. A commenter stated that:
 - a. Students cannot learn in a crowded environment.
7. A commenter stated that:
 - a. Placing a charter in P.S. 167 is not the answer. Co-locations create tensions.
 - b. Charters will receive more support than district schools, particularly than Title 1 schools.
 - c. We should fight for our rights for children to get a great education.
 - d. Allow children to know that they are entitled to fair atmosphere in the building.
 - e. SACS is not the answer. This will create a situation of haves and have nots.
 - f. The Mayor does not have the answers. The school community knows better.
8. A commenter stated that:
 - a. SACS is terrifying and will stop students from having fun.
 - b. SACS will take over the lunch and the gym.
9. A commenter stated that the building will be too crowded.

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

The DOE received 0 written comments and 0 messages via voicemail concerning this proposal.

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

Comments 1(a), 1(e), 2(a), 3(b), 7(a), 7(c), 7(d), 7(e), 7(f), 8(a) voice general opposition to the proposal.

The DOE notes there is a need for increased options for students in the Brooklyn, including those students located in District 17. The DOE strives to ensure that all students in New York City have access to various educational options at every stage of their education. This proposal aims to provide a new option for these students.

The four operating SACS schools that received a Progress Report for the 2010-2011 and 2011-2012 school years received an overall grade of A. Further, students at SACS schools have performed well on Statewide standardized tests. At these schools, 96% of students tested proficient in Math on the New York State Tests in 2012 and 88% of students tested proficient in English Language Arts.

Comments 1(b), 2(d), 4(b), 6 and 9 assert that the school does not have enough space to accommodate the charter school.

There are currently hundreds of schools in buildings across the city that are co-located; some of these co-locations involve multiple district schools, while others involve district schools and public charter schools sharing space. The DOE seeks to fully utilize all of its building capacity to serve students. The DOE does not distinguish between students attending public charter schools and students attending district schools. In all cases, the DOE seeks to provide high quality education and allow parents and students to choose where to attend.

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

There is sufficient space at K167 for all schools. As described in the BUP, P.S. 167 is currently operating above its Footprint. If the proposal is approved, as P.S. 167 phases-out and 17K532 phases-in, both schools will receive their full Footprint allocation of space. In the third year of the proposal's implementation and all subsequent years, SA – Brooklyn 7 will not receive its full baseline allocation of space under the Footprint due to the building's configuration. SA – Brooklyn 7 agrees, however, that it can adequately operate within the space allocated.

According to the 2011-2012 Enrollment, Capacity, Utilization Report (“Blue Book”), K167 has a target capacity of 785 students, but in 2012-2013 the building is serving 450 students, yielding a building utilization rate of 57%. This means that the building is “underutilized” and has space to accommodate additional students. In 2016-2017, once P.S. 167 has completed its phase-out and SA – Brooklyn 7 and 17K532 are at full scale in K167, it is projected that there will be approximately 641-761 students served in K167, thereby yielding an estimated building utilization rate of approximately 82%-97%.

Comments 1(c) and 2(h) concern SACS’ reputation in co-locations and question how SA- Brooklyn 7 and P.S. 167 and 17K532 will have a working relationship.

Roughly half of our schools 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. In all cases, allocation of classroom, resource, and administrative space is guided by the Footprint, which is applied to all schools in the building.

As stated in the BUP, if the proposal is approved, the schools will need to share large common and specialty rooms in the building. A shared space schedule will be developed and finalized by the Building Council, in conjunction with the Office of Space Planning. Principals of the co-located schools sit on the Building Council and are free to deviate from the proposed plan and create a shared space schedule as long as it is agreed upon by both parties.

If the Building Council is unable to agree upon a schedule for shared spaces, there is a mediation process outlined in the Campus Policy Memo, which is available at <http://schools.nyc.gov/community/campusgov>.

Comments 1(d) and 8(b) concern the usage of shared spaces.

The BUP puts forth a proposed shared space schedule for the co-located schools that is feasible and demonstrates that the co-located schools may be treated equitably and comparably in the use of shared spaces. The final shared space schedule will be collaboratively drafted by the Building Council if the proposed co-location is approved by the PEP.

If conflicts emerge and progress is impaired, the Building Council will follow the dispute resolution procedures outlined in the Campus Policy Memo available at the following link: <http://schools.nyc.gov/community/campusgov/KeyDocuments/CampusMemo>.<http://schools.nyc.gov/community/campusgov/KeyDocuments/CampusMemo.htm>.

Comments 2(b), 2(c), and 2(e) concern the demand for quality elementary school seats in District 17.

Approximately 47% of all students currently enrolled in all District 17 elementary and K-8 schools are enrolled in schools that received a C or D on their 2011-2012 Progress Report. Therefore, there is a need for more high quality elementary schools serving District 17 students.

Comment 2(f) concerns SACS' recruitment from other districts.

As stated in the EIS, SA- Brooklyn 7 will provide the following lottery preferences: (1) siblings of current or accepted students, (2) English Language Learner ("ELL") students, and (3) applicants who reside within the Community School District ("CSD") in which the school is located.

SA – Brooklyn 7 sets aside a certain percentage of seats for ELL students that is relatable to the average ELL percentage at a traditional public elementary school within the City and/or District 17. With respect to the remaining seats and the waitlist, SA – Brooklyn 7 provides a lottery preference to applicants who reside within the CSD.

SA- Brooklyn 7 does provide a priority to students who live in District 17. Ultimately, the number of District 17 students who attend SA- Brooklyn 7 is dependent on the number of District 17 residents who apply.

Comment 2 (g) concern Success' engagement with the District 17 community.

The DOE notes that Success Academy submitted a charter application to SUNY to open a new charter school in New York City and targeted outreach in Community School District 17 in Brooklyn.

Success also anticipates that it will conduct further engagement and recruitment of prospective students in District 17 by using a variety of methods. These methods may include, but are not limited to:

- Posting fliers and other printed materials throughout the CSD(s) the school intends to serve (the fliers will be primarily in English, but may also include other dominant languages spoken in the CSD)
- Reaching out to local community organizations, centers, and/or faith-based organizations
- Holding open houses or information sessions
- Mail campaigns
- Advertising in local media (newspapers, radio)
- Contacting local elected officials and community boards
- Setting up a school website with school and application information
- Visiting "feeder schools," daycare centers, or schools that serve grades that feed into the intake grade(s) of the charter school.

Comment 3(a) concerns the acceptance of special education and English Language Learners students into SA- Brooklyn 7.

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

Pursuant to state law, public charter schools must 1) serve all students who are admitted through their lotteries, and 2) serve a percentage of special education and English Language Learner ("ELL") students comparable to the district average. Charter schools which fail to meet the special education and/or ELL targets set by their authorizer risk being closed or having their renewal applications rejected. Charter

schools must admit all students according to their lottery preferences, and may not turn away a student because of language ability, behavioral problems, or services required by an Individualized Education Program (“IEP”).

Finally, as mentioned earlier, SA – Brooklyn 7 will give a priority to students who are ELLs.

Comment 4(a) concerns DOE engagement with the District 17 community.

The DOE is committed to engaging with the community for all proposals to implement a significant change in school utilization, as detailed in Chancellor’s Regulation A-190. Chancellor’s Regulation A-190 sets out the public review and comment process that the DOE undertakes with respect to all such proposals by the Chancellor (e.g., grade reconfigurations, re-sitings, co-location of schools, or phase-outs)

The DOE appreciates all feedback from the community regarding a proposal. Prior to the proposal posting, the DOE spoke with P.S. 167’s principal. When the EIS and BUP for this proposal were issued, they were made available to the staff, faculty and parents at the impacted schools, on the DOE’s Web site, and in P.S. 167’s main office. In addition, the DOE dedicated a proposal-specific website, voicemail and email address to collect feedback on this proposal. Furthermore, all schools’ staff, faculty, and parent communities were invited to the Joint Public Hearing to provide further feedback.

Comment 5 concerns the expansion of SA- Brooklyn 7 in the K167 building.

As stated in the EIS, SA – Brooklyn 7 is a new public elementary charter school that is currently authorized to serve kindergarten through fifth grades. This proposal only involves the co-location of SA – Brooklyn 7’s kindergarten through second grades in the K167 building.

The DOE is considering all long-term options to accommodate the future siting of grades three through five of SA – Brooklyn 7. The DOE will also consider long-term options to site the school’s full offering of grades K-5 in one building. Any such proposals will be subject to a separate EIS pursuant to Chancellor’s Regulation A-190.

Comment 7(b) concerns the distribution of resources to charter and district schools.

With regard to the distribution of space, as discussed above, the DOE applies the Footprint to allocate instructional and administrative space to school organizations.

Charter schools receive public funding pursuant to a formula created by the state legislature, and overseen by the New York State Education Department. The DOE does not control this formula, and the funding formula for SACS is not affected by the approval or rejection of this proposal. Charter management organizations, just like any other school Citywide, may also choose to raise additional funds to purchase various resources they feel would benefit their students (e.g., Smartboards, fieldtrips, etc). However, pursuant to Chancellor’s Regulation A-190, the Chancellor or his/her designee must first authorize in writing any proposed capital improvement or facility upgrade in excess of five thousand dollars, regardless of the source of funding, made to accommodate the co-location of a charter school within a public school building. For any such improvements or upgrades that have been approved by the

Chancellor, capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter school within the public school building. With respect to concerns that charter schools “funnel” resources away from DOE schools, it should be noted that charter schools receive public funding based on their student enrollment, as do DOE schools. To the extent that a student opts to attend a charter school rather than a particular zoned DOE school, that zoned DOE school’s enrollment may decline, resulting in less per student funding. However, this very same result occurs whenever a student decides to attend a choice, unzoned DOE school, rather than his or her zoned school. In this regard, the impact of a parent selecting a charter school is no different than the impact of a parent selecting an alternative DOE school. The DOE believes that parents should have the ability to choose where they wish to send their child for school because this is of paramount importance. As a result, the DOE is committed to increasing the educational options available to families.

Changes Made to the Proposal

No changes were made to this proposal.