Department of Education
Chancellor David C. Banks

Amended Public Comment Analysis

Date: May 17, 2022

Topic: Formulas Used to Allocate Revenue among Community School Districts and Schools

Date of PEP Vote: May 18, 2022

Summary of Proposed Item

Pursuant to Education Law section 2590-r and Chancellor's Regulation B-801, the Chancellor shall develop objective formulas for use in allocating projected revenues among community school districts and their schools. The formula developed by the NYC Department of Education ("NYCDOE"), known as the Fair Student Funding ("FSF") formula, utilizes baseline and special categorical weighted multipliers to allocate revenue to schools. The NYCDOE uses this formula, together with an estimate of the total sum of money available, to provide community school districts and schools with budget allocations for use in the school-based budgeting process set forth in Chancellor's Regulation B-801.

Each year, the Chancellor shall submit the proposed allocation formulas to the Panel for Education Policy ("PEP") for approval.

On March 11, 2022, NYCDOE issued a proposal to maintain the formulas used in the 2021-2022 school year for the 2022-2023 school year.

Summary of Written Comments

The NYCDOE received the following comments through the dedicated email address for this proposal:

1. Commenter requests information about the basis of the AIS performance weights. Given that the 2020 exam was not given, and the 2021 exam has low participation rates, how will "Below Standards" and "Well Below Standards" be determined?
2. Commenter inquires what is the breakdown of the expenses that are covered/paid for by the $8b Support Costs? How much of the NYCDOE "Support Costs" ($8b) go towards the cost of School Safety Agents (SSAs) and school security? How is this funding "moved" or "transferred" to the NYPD budget?
3. Commenter asks whether NYCDOE is still updating a special education website.
4. Commenter states that FSF is neither complete nor transparent, but does not provide specific examples, and urges the Panel to reject the budget allocation formula.
5. Commenter submitted a Community Education Council resolution calling for the following adjustments to the formula:
    a. The creation of a new weight for students in temporary housing.
    b. The reapportionment of weights to provide "greater attention" to students living in poverty.
    c. The re-evaluation of weights for Portfolio High Schools.
    d. Modification of the weights to service students with the most need.

6. Commenter submitted comments received from a Community Education Council meeting:
    a. Inquires if the NYCDOE can do an assessment of how much money is returned to the DOE every year by specialized academic schools?
    b. Would like to see a weight for Students in Temporary Housing (STH).
    c. Inquires about the weights and average teacher salaries; and the relationship to class size.
    d. Inquires about students who are incarcerated.
7. Commenter submitted an 8-page report and a 2-page summary. Commenter subsequently submitted the same recommendations. The report includes the following recommendations:
    a. Review weights and eligibility for:
        i. Career and Technical Education (CTE)
        ii. Specialized Academic
        iii. Specialized Audition
    b. Replace individual school-wide average teacher salary with the citywide average teacher salary when charging schools for teachers.
    c. Changing policies for rolling over surplus funds and rolling over school deficits from one year to future years.
    d. Changes to the Enrollment Projections process.
8. Commenter states concerns about the FSF weights for high intensity special education services of ICT and SC when there aren't enough students to hire an additional teacher.
9. Commenter states that FSF is neither complete nor transparent, but does not provide specific examples, and urges the Panel to reject the budget allocation formula.
10. Commenter states that there are material deficiencies and procedural irregularities in the submission of this proposal to the PEP for the following reasons:

    a. The same proposed FSF weights that were submitted for the April 27, 2022 PEP meeting have been submitted for the May 18, 2022 PEP meeting, and the proposal is inadequate and incomplete because it does not sufficiently address allocation levels, including:
        i. An increase of 3% in FSF weights and addition of weights for students in temporary housing or in foster care;
        ii. A stipulation that all schools receive 100% of their basic Fair Student Funding.
        iii. Replace individual school-wide average teacher salary with the citywide average teacher salary when charging schools for teachers.
        iv. Cut-off levels to establish eligibility for roll-overs should be based on objective data from each school's prior year student performance.
        v. Adjust criteria for finalizing enrollment projections for schools, with initial projections being agreed to by the principal and SLT before being finalized.
        vi. Change the criteria/formula for allocating FSF Portfolio Funds for CTE High Schools and CTE Programs in Academic High Schools.
        vii. Change the criteria/formula for allocating the FSF Portfolio Funds for Specialized Audition High Schools.
        viii. Change the criteria/formula for allocating the FSF Portfolio Funds for Specialized Academic High Schools.
    b. The Public Notice for the May 18, 2022 meeting was not posted in a timely manner.
    c. The resolution to adopt the FSF Formula Weights is time-barred from inclusion in the May 18, 2022 PEP Meeting Agenda.

d. The public review process for the formulas used to allocate revenue among community school districts and schools, conducted prior to the May 18, 2022 meeting, was inadequate because it did not provide consideration of the item for at least 45 days in advance of the PEP vote on the item. .
e. The proposal is time-barred from May 18th PEP Meeting agenda because a revised Public Notice should have been posted on May 3rd.
f. There was a failure to provide the required assessment of public comments prior to the April 27, 2022 meeting.
g. There was a failure to provide required minutes for review of the April 27, 2022 meeting.
h. There was inadequate composition of the PEP because there has been a vacancy in one of the Mayoral appointee positions for more than 90 days, in violation of the PEP by-laws.

11. Commenter inquires about the following:
    a. How FSF Portfolio money is allocated to schools;
    b. How teacher salary is charged to school budgets;
    c. How rollovers and surpluses will be handled; and
    d. The process of finalizing projections between schools & DOE.

The NYCDOE received the following comment through the dedicated phone line for this proposal:

12. Commenter inquires who funds the Bronx Plan Hard to Staff Differential.

Analysis of Issues Raised and Significant Alternatives Proposed

Comment 1 requests information about the basis of the AIS performance weights. Given that the 2020 exam was not given, and the 2021 exam has low participation rates, how will "Below Standards" and "Well Below Standards" be determined?

Given the lack of a 2020 exam, and the low participation rates for the 2021 exam, for the cohorts of students who would otherwise have used either the 2020 or 2021 exam scores to determine FSF AIS eligibility, the 2019 exam scores were used.

Comment 2 inquires what is the breakdown of the expenses that are covered/paid for by Support Costs? How much of the NYCDOE "Support Costs" go towards the cost of School Safety Agents (SSAs) and school security? How is this funding "moved" or "transferred" to the NYPD budget?

Comment 2 is unrelated to the proposal and does not require a response.

Comment 3 asks whether NYCDOE is still updating a special education website.

Comment 3 is unrelated to the proposal and does not require a response.

Comment 4 states that FSF is neither complete nor transparent, but does not provide specific examples, and urges the Panel to reject the budget allocation formula.

All the policies associated with FSF can be found in the FSF Guide. NYCDOE believes the formula is complete and appropriate to serve the needs of students.

Comment 5 is a resolution calling for several weight changes. The principal recommendations of this resolution are set forth above.

These recommendations propose a new weight, an increased weight, and the re-evaluation or modification of existing weights, which are policy questions requiring further analysis and discussion. The NYCDOE will take these recommendations under advisement for further study in future years.

Comment 6 encompasses 4 inquires. The inquiries are set forth above.

Regarding comment (a), this information is not available, and there is no data to share at this time. NYCDOE does not believe that specialized academic high schools leave a disproportionate share of their FSF allocation unspent.

Regarding comment (b), this recommendation proposes a new weight for STH, which is a policy question requiring further analysis and discussion. The NYCDOE will take this recommendation under advisement for further study in future years.

Regarding comment (c), the FSF weights are the same citywide, and are independent of each school's average teacher salary. The FSF formula includes a component whereby school allocations are updated for the system-wide change in average teacher salaries. Additionally, the philosophy underlying the FSF formula is that each student is entitled to dollars based on the student's academic needs, regardless of where the student attends school. The FSF formula allocates funding based on individual student characteristics. Schools receive adequate funding for a mix of junior and senior teachers, and have budget flexibility for investments aligned to their Comprehensive Education Plan (CEP).

Regarding comment (d), this comment proposes discussion of funding for incarcerated youth, which is a policy question requiring further analysis and discussion. The NYCDOE will take this recommendation under advisement for further study in future years.

Comment 7 calls for several changes. The principal recommendations are set forth above.

Some of the recommendations are not related to FSF or the formula weights. Others involve policy recommendations that will require further exploration and analysis. Recommendation (a) requests a review of the weights and eligibility for the CTE, specialized academic, and specialized audition portions of the FSF formula. These are policy questions requiring further analysis and discussion. The NYCDOE will take these recommendations under advisement for further study in future years. However, it is important to recognize that any future new or increased weights will require additional sustainable funding sources. Recommendation (b) requests replacing individual school-wide average teacher salary with the citywide average teacher salary when charging schools for teachers. Under FSF, schools are responsible for their budgeting choices. Schools are charged actual costs, in line with weighted student funding

policies. Recommendations (c) and (d) are unrelated to the proposal and do not require a response.

Comment 8 states concerns about the FSF weights for high intensity special education services of ICT and SC when there aren't enough students to hire an additional teacher.

Students with disabilities are also eligible for grade level, poverty, ELL and academic intervention weights. Funds generated from these weights should be used in addition to the special education weights to support the needs of the student. Under FSF Schools receive per-student funding based on the number of periods a day that a student requires special education services, rather than funding based on a specific service delivery model. This supports the goal of increasing schools' flexibility to develop service delivery models or a combination of models tailored to meet the individual needs of the students. Additionally, the existing weights do not assume that all classes fill to capacity.

Comment 9 states that FSF is neither complete nor transparent, but does not provide specific examples, and urges the Panel to reject the budget allocation formula.

All the policies associated with FSF can be found in the FSF Guide. NYCDOE believes the formula is complete and appropriate to serve the needs of students.

Comment 10 states that there were material deficiencies and procedural irregularities as set forth above, and as follows:

Comment 10(a)(i) requests an increase to selected weights. These are policy questions requiring further analysis and discussion. The NYCDOE will take these recommendations under advisement for further study in future years. However, it is important to recognize that any future new or increased weights will require additional sustainable funding sources.

Comment 10(a)(ii) requests a stipulation that all schools receive 100% of their basic Fair Student Funding. The Fair Student Funding floor will remain 100% in FY 2023.

Comment 10(a)(iii) proposes replacing individual school-wide average teacher salary with the citywide average teacher salary when charging schools for teachers. Under FSF, schools are responsible for the budgeting choices. Schools are charged actual costs, in line with weighted student funding policies.

Comments 10(a)(iv) and (v) are unrelated to the proposal and do not require a response in the Public Comment Analysis.

Comments 10(vi), (vii), and (viii) request changes to eligibility for the CTE, specialized academic, and specialized audition portions of the FSF formula. These are policy questions requiring further analysis and discussion. The NYCDOE will take these recommendations under advisement for further study in future years. However, it is important to recognize that any new or increased weights will require additional sustainable funding sources.

Comment 10(b) states that the public Notice for the May 18, 2022 PEP meeting was not posted in a timely manner.

In accordance with Section 9.1.2 of the PEP by-laws, public notice of the May 18th meeting was posted on the website and circulated to all superintendents, community district education councils, citywide education councils, community boards, and school leadership teams ten business days before the meeting, which was May 4th.

Comment 10(c) states that the resolution to adopt the FSF formula weights is time-barred from inclusion in the May 18th EP Meeting Agenda

The resolution for adoption of the FSF formulas is not time-barred from the May 18th PEP meeting agenda because it was provided to the Secretary at least five days in advance of public notice of the meeting.

Comment 10(d) states the public review process for the formulas used to allocate revenue among community school districts and schools is inadequate because it did not provide consideration of the item for at least 45 days in advance of the PEP vote on the item.

The public review process for the formulas used to allocate revenue among community school districts and schools complied with the legal requirements and the PEP by-laws. The public review process lasted more than 45 days. It began on March 11, 2022, more than 45 days before the April 27th PEP meeting, and it continued when an Amended Public Notice was posted and circulated on May 4th, for another 13 days.

Comment 10(e) states that this agenda item is not timely because a revised public notice should have been issued on May 3rd.

This item is not a revision of a previous item. Therefore the provision of the by-laws relating to public notice for revisions does not apply.

Comment 10(f) states that a Public Comment Analysis of comments received was not posted on the website or provided to the PEP before the April 27th PEP meeting.

In accordance with legal requirements, the Public Comment Analysis was posted on the website on April 26, 2022, the day before the April 27th PEP meeting, and remains on the website. The Public Comment Analysis was also shared with PEP members prior to the meeting.

Comment 10(g) states that minutes from the March PEP meeting were not made available to the public.

Minutes from the March PEP Meeting were approved at the April 27th PEP meeting and have been posted on the website.

Comment 10(h) states there has been a vacancy in one of the Mayoral appointee positions for more than 90 days in violation of the PEP by-laws.

The existing vacancy became effective on April 7, 2022. As such, this position has been vacant for 40 days, as of today.

Comment 11 makes several inquiries, which are laid out above.

All the policies associated with FSF can be found in the FSF Guide. Comment (a) inquires how portfolio money is allocated to the schools through the FSF formula. Schools eligible for FSF portfolio funding are allocated in per pupil amounts, based on each pupil's respective tier. Recommendation (b) inquires about how teacher salary is charged to schools. Under FSF, schools are responsible for their budgeting choices. Schools are charged actual costs, in line with weighted student funding policies. Recommendations (c) and (d) are unrelated to the proposal and do not require a response in the Public Comment Analysis.

Comment 12 inquires who funds the Bronx Plan Hard to Staff Differential.

Comment 12 is unrelated to the proposal and does not require a response in the Public Comment Analysis.

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Changes Made to the Proposal

No changes have been made to this proposal since it was initially posted on March 11, 2022.

Information Regarding Where the Full Text of the Proposed Item May Be Obtained

The proposed Formula, as posted on the NYCDOE website on March 11, 2022, will be presented to the Panel for Educational Policy for a vote at its May 18, 2022 meeting. For more information, please review the proposed Formula, available at FY2023 Allocation Formula Proposed Weights.