



**TO:** P-12 Education Committee

**FROM:** James N. Baldwin 

**SUBJECT:** Charter Schools: Initial Applications to be Authorized by the Trustees of the State University of New York

**DATE:** December 2, 2021

**AUTHORIZATION(S):** 

### SUMMARY

#### Issue for Decision

Should the Board of Regents approve the Department's recommendation concerning the following charter schools proposed to be authorized by the Trustees of the State University of New York:

1. **Academy Charter School 2 (The)** (proposed to locate in the Wyandanch Union Free School District)
2. **South Shore Charter School** (proposed to locate in the Central Islip Union Free School District)

#### Reason(s) for Consideration

Required by State statute and review of policy.

#### Proposed Handling

This issue will come before the P-12 Education Committee and the Full Board at its December 2021 meeting, where it will be voted on and action taken.

#### Procedural History

On October 7, 2021, the SUNY Trustees of the State University of New York ("the Trustees" or "SUNY") approved the proposed charter actions being presented to the Board of Regents pursuant to Article 56 of the Education Law.<sup>1</sup>

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<sup>1</sup> See materials regarding these approvals and a recording of the SUNY Trustee Charter School Committee meeting at <https://www.suny.edu/about/leadership/board-of-trustees/meetings/meetingNotices.cfm?archivedPage=Y>.

Over the past few years, the Board of Regents has voted several times to send proposed charters back with comments for SUNY's reconsideration (see "Related Regents Items"), and on most, but not all, occasions, SUNY has voted to resubmit the items to the Board of Regents without modification.

### **Background Information**

The Department is forwarding these proposed charter actions for the above charter schools, as proposed by SUNY as a charter school authorizer under Article 56 of the Education Law.

Pursuant to Education Law §2852, the Board of Regents has the authority to issue charters to all charter schools in New York State. The process for charter schools authorized by SUNY is as follows:

- SUNY recommends that the Board of Regents issue a charter implementing the proposed charter actions and sends the proposed charter to the Board of Regents through the Department. In this case, SUNY sent the proposed charters to the Department on **October 29, 2021**.<sup>2</sup>
- Once a complete proposed charter is received by the Department from SUNY, the Board of Regents has two options:
  1. If the Board of Regents takes no action on the proposed charter, the proposed charter typically goes into effect by operation of law 90 days after the initial complete submission to the Department; however, because these charters were submitted before November 1st in the calendar year, without further action they would go into effect on **January 4, 2022**.
  2. Consider the proposed charter and vote on it with one of the following outcomes:
    - a. If the vote is to approve the proposed charter actions, the actions are effective immediately, or as otherwise recommended by SUNY.
    - b. If the vote is to send the proposed charter back to SUNY with comments, SUNY must reconsider the recommendation and can choose to resubmit the proposed charter to the Board of Regents with modifications, provided that the applicant(s) consent in writing to such modifications; resubmit the proposed charter to the Board of Regents without modifications; or abandon the proposed charter. **This is the Department's recommendation to the Board of Regents for the current proposed charter actions.**
    - c. If the proposed charter actions are resubmitted to the Board of Regents, for SUNY-authorized charter schools only, the Board of Regents must approve and issue the proposed charter within 30 days of resubmission. If the Board

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<sup>2</sup> After receiving the proposals from SUNY, the Department received considerable feedback in opposition to the proposals from the communities in and around the districts the schools will operate in. The Department believes that, in light of this opposition, the SUNY Trustees should solicit further input from the public and should reconsider the applications.

of Regents does not do so, and absent further legal action, the proposed charter shall be deemed approved and issued at the end of such period.

The Education Law requires<sup>3</sup> the charter entity to make certain specific findings prior to the issuance of a charter. The Department's recommendation to return the proposed charters to SUNY is based on significant community opposition to the proposed schools, and the inability to make the required findings that granting the application is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of Article 56 of the Education Law.

A summary of public comments received by SUNY in conjunction with the application for the Academy Charter School 2 is in Appendix A of [the SUNY Summary of Findings and Recommendations](https://www.suny.edu/about/leadership/board-of-trustees/meetings/webcastdocs/IIIA5_Summary%20of%20Findings_TACS%20-%20Wyandanch_v2.pdf) at [https://www.suny.edu/about/leadership/board-of-trustees/meetings/webcastdocs/IIIA5\\_Summary%20of%20Findings\\_TACS%20-%20Wyandanch\\_v2.pdf](https://www.suny.edu/about/leadership/board-of-trustees/meetings/webcastdocs/IIIA5_Summary%20of%20Findings_TACS%20-%20Wyandanch_v2.pdf).

A summary of public comments received by SUNY in conjunction with the application for the South Shore Charter School is in Appendix A of [the SUNY Summary of Findings and Recommendations](https://www.suny.edu/about/leadership/board-of-trustees/meetings/webcastdocs/IIIA4_Summary%20of%20Findings_SouthShore.pdf) at [https://www.suny.edu/about/leadership/board-of-trustees/meetings/webcastdocs/IIIA4\\_Summary%20of%20Findings\\_SouthShore.pdf](https://www.suny.edu/about/leadership/board-of-trustees/meetings/webcastdocs/IIIA4_Summary%20of%20Findings_SouthShore.pdf).

After considering the statutory requirements, the Department recommends that the Board of Regents return the proposed charters for the schools listed above to the SUNY Trustees for reconsideration, with the following comment and recommendation:

*The Regents are unable to make the required findings in accordance with Education Law §2852(2), including, but not limited to, the findings that granting the applications is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of Article 56 of the Education Law. The Regents encourage the SUNY Trustees to re-examine and consider the comments presented in the SUNY Summary of Findings and Recommendations for these applications, many in opposition to these charter applications, as well as the significant additional community voices that have reached out after the SUNY Trustees voted to approve these applications. The New York State Education Department has assigned a Fiscal Monitor to the Wyandanch Union Free School District, who has created budgetary and academic improvement plans that the district is currently implementing. It is essential that the SUNY Trustees consider the impact of the proposed charter school on these carefully structured plans, including the potential economic impact to the District. Failure to do so could have serious, long-term, and permanent economic and social costs for the District's students. These proposed charter actions should be abandoned.*

### **Related Regents Items**

[April 2017 Return of Proposed Early Renewal Charters](#)

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<sup>3</sup> Education Law §2852(2).

(<https://www.regents.nysed.gov/common/regents/files/417p12a5.pdf>)

[July 2017 Return of Proposed Early Renewal Charters](#)

(<https://www.regents.nysed.gov/common/regents/files/717p12a1.pdf>)

[June 2019 Return of Proposed Early Renewal Charters](#)

(<https://www.regents.nysed.gov/common/regents/files/619p12a1.pdf>)

[January 2020 Return of Proposed Early Renewal Charters](#)

(<http://www.regents.nysed.gov/common/regents/files/120p12a2.pdf>)

[March 2020 Return of Proposed Early Renewal Charters](#)

(<https://www.regents.nysed.gov/common/regents/files/320p12a2.pdf>)

[April 2021 Return of Proposed Early Renewal Charters](#)

(<https://www.regents.nysed.gov/common/regents/files/421p12a5.pdf>)

[July 2021 Return of Proposed New Joint Charter High School](#)

(<http://www.regents.nysed.gov/common/regents/files/721p12a1.pdf>)

## **Recommendation**

It is recommended that the Board of Regents take the following action:

VOTED: That the Board of Regents return the proposed charters for **Academy Charter School 2 (The)**, and **South Shore Charter School**, to the Trustees of the State University of New York for reconsideration, with the following comment and recommendation, “The Regents are unable to make the required findings in accordance with Education Law §2852(2), including, but not limited to, the findings that granting the applications is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of Article 56 of the Education Law. In addition, there is significant community opposition to the proposed schools that must be considered. The Regents encourage the SUNY Trustees to re-examine and consider the comments presented in the SUNY Summary of Findings and Recommendations for these applications, many in opposition to these charter applications, as well as the significant additional community voices that have reached out after the SUNY Trustees voted to approve these applications. The New York State Education Department has assigned a Fiscal Monitor to the Wyandanch Union Free School District, who has created budgetary and academic improvement plans that the district is currently implementing. It is essential that the SUNY Trustees consider the impact of the proposed charter school on these carefully structured plans, including the potential economic impact to the District. Failure to do so could have serious, long-term, and permanent economic and social costs for the District’s students. These proposed charter actions should be abandoned.”

## **Timetable for Implementation**

The Board of Regents action for the above-named charter schools will become effective immediately.