





**TO:** P-12 Education Committee

**FROM:** James N. Baldwin 

**SUBJECT:** Early Renewal Recommendations for Charter Schools  
Authorized by the State University of New York Trustees

**DATE:** June 2, 2022

**AUTHORIZATION(S):** 

### SUMMARY

#### Issue for Decision

Should the Board of Regents approve the early renewal recommendations for the following schools authorized by the State University of New York Trustees:

- **Family Life Academy Charter School** (Four-year renewal term from 2023 to 2027)
- **Family Life Academy Charter School III** (Three-year renewal term from 2024 to 2027)
- **NYC Autism Charter School East Harlem** (Two-year renewal term from 2025 to 2027)

#### 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 for action at its June 2022 meeting.

#### Procedural History

On March 17, 2022, the Trustees of the State University of New York (“the Trustees” or “SUNY”) approved the renewal charters which are being presented to the Board of Regents for approval and issuance pursuant to Article 56 of the Education Law.

Over the past few years, SUNY has approved early renewals several times. Each time, the Board of Regents has voted to send the proposed charters back with comments for SUNY's reconsideration (see "Related Regents Items"), and each time, SUNY has voted to resubmit the items to the Board of Regents without modification.

### **Background Information**

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 schools authorized by SUNY is as follows:

- SUNY recommends that the Board of Regents issue a charter renewal or a revision of an existing charter and sends the proposed charter renewal/revision to the Board of Regents through the Department. In this case, the proposed renewal charters were initially sent to the Department on March 30, 2022.
- Once a proposed charter is received by the Department, the Board of Regents has two options:
  1. If the Board of Regents takes no action on the proposed charter, the charter renewal will go into effect by operation of law 90 days after the initial submission to the Department, in this case on June 28, 2022.
  2. Consider the proposed charter and vote on it with one of the following outcomes:
    - a. If the vote is affirmative, the action is 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 either resubmit the proposed charter to the Board of Regents with modifications, provided that the applicant consents in writing to such modifications; resubmit the proposed charter to the Board of Regents without modifications, or abandon the proposed charter. If the proposed charter is 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 of Regents does not do so, the charter shall be deemed approved and issued at the expiration of such period. **This action is recommended by the Department for the proposed renewals.**

Returning the proposed renewal charters to SUNY is based on Education Law §2851(4), which provides, "[c]harters may be renewed, upon application, for a term of

up to five years...”<sup>1</sup> It has long been the practice of all authorizers, including the SUNY Trustees, to renew charter schools in the academic year in which their charter term expires, in order to ensure the most recent data is being used in the renewal evaluation. In this instance, SUNY is departing from this practice.

The SUNY Trustees voted on March 17, 2022, to renew the schools. As noted above, the schools’ current charter terms will not end until as late as 2027. It is the Department’s position that, based on the relevant provisions of the Charter Schools Act, it is not the intent of the law to allow a charter entity to grant successive future, or early, renewals.

The law requires the charter entity to make certain specific findings prior to the issuance of a new or renewal charter.<sup>2</sup> In addition, a renewal application must include a report of the progress of the charter school in achieving the educational objectives set forth in the charter, a detailed financial statement, copies of each of the annual reports, and a description of the means by which the school will meet or exceed enrollment and retention targets for students with disabilities, English language learners, and students who are eligible applicants for the free and reduced-price lunch program. Reading the statutory renewal requirements together with the requirement that the term of a proposed renewal may not exceed five years makes clear that the intent of the law is to maintain quality charter authorizing practices by ensuring that renewal decisions are based on timely data and information that accurately reflects the charter school’s performance and health in the final year of the school’s current charter and immediately prior to the commencement of the renewal charter.

As noted above, since 2017, when the SUNY Trustees began the practice of approving early renewals, the Board of Regents has returned all early renewals to the SUNY Trustees for reconsideration. In response, the SUNY Trustees have returned the renewals without modification, and their recommendations have gone into effect via operation of law due to the provisions of Education Law §2852(5-b), which mandate their approval.<sup>3</sup> Absent legislative action to address this issue, the Department is not able to take further action.

For the reasons set forth above, 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: “Approving the renewal of any charter school years before the expiration of the charter does not allow timely review of the school’s educational and fiscal soundness, community support, legal compliance, or means by which the school will meet or exceed enrollment and retention targets for students with disabilities, English language

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<sup>1</sup> Also see Education Law §2853(1)(a), which states “[u]pon approval of an application to renew a charter, the board of regents shall extend the certificate of incorporation for a term not to exceed five years...”

<sup>2</sup> Education Law §§2851(2) and 2852(2).

<sup>3</sup> The automatic approval requirements in Education Law §2852(5-b) are only applicable to recommendations submitted by the SUNY Trustees. Recommendations of other charter authorizers, including the NYC Department of Education Chancellor and the Buffalo Board of Education are *not* automatically approved over the objection of the Board of Regents.

learners, and students who are eligible applicants for the free and reduced-price lunch program. The charters should be abandoned, and the schools should be directed to resubmit their applications no earlier than one year prior to the expiration of the charter term. While we believe SUNY's continued practice of approving early renewals violates both the spirit and intent of the Charter Schools Act and is contrary to the established practices of every other authorizer in the state, the law, in its present form, prevents the Regents from taking action to end the practice. Over the past five years, SUNY has repeatedly disregarded the Board of Regents' objections on this matter."

### **Related Regents Items**

April 2017 [Return of Proposed Early Renewal Charters](https://www.regents.nysed.gov/common/regents/files/417p12a5.pdf)  
(<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)  
(<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)  
(<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)  
(<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)  
(<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)  
(<https://www.regents.nysed.gov/common/regents/files/421p12a5.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 **Family Life Academy Charter School, Family Life Academy Charter School III, and NYC Autism Charter School East Harlem** to the Trustees of the State University of New York for reconsideration, with the following comment and recommendation: "Approving the renewal of any charter school years before the expiration of the charter does not allow timely review of the school's educational and fiscal soundness, community support, legal compliance, or means by which the school will meet or exceed enrollment and retention targets for students with disabilities, English language learners, and students who are eligible applicants for the free and reduced-price lunch program. The charters should be abandoned, and the schools should be directed to resubmit their applications no earlier than one year prior to the expiration of the charter term. While we believe SUNY's continued practice of approving early renewals violates both the spirit and intent of the Charter Schools Act and is contrary to the established practices of

every other authorizer in the state, the law, in its present form, prevents the Regents from taking action to end the practice. Over the past five years, SUNY has repeatedly disregarded the Board of Regents' objections on this matter."

### **Timetable for Implementation**

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