




THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

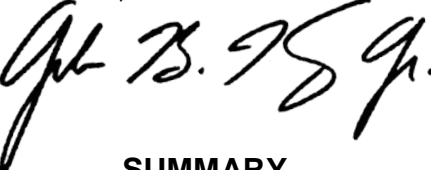
TO: The Honorable the Members of the Board of Regents

FROM: Ken Slentz 

SUBJECT: Merger of KIPP S.T.A.R. College Preparatory Charter School (a SUNY Board of Trustees authorized school) into KIPP NYC Washington Heights Academy Charter School (a Board of Regents authorized school), as surviving education corporation with a name change to KIPP NYC Public Charter Schools, and Renewal of Charter for KIPP S.T.A.R. College Preparatory Charter School

DATE: March 8, 2013

AUTHORIZATION(S):


SUMMARY

Issues for Decision (Consent)

Should the Board of Regents approve the merger of KIPP S.T.A.R. College Preparatory Charter School (KIPP S.T.A.R.) into KIPP NYC Washington Heights Academy Charter School (WHACS), as surviving education corporation with a name change to KIPP NYC Public Charter Schools, and approve the proposed revisions to WHACS' provisional charter and charter to conform to such merger?

Should the Board of Regents approve the renewal of the charter for KIPP S.T.A.R. College Preparatory Charter School?

Reason(s) for Consideration

Required by state statute.

Proposed Handling

These issues will be before the full Board for action at the March 2013 meeting of the Board of Regents.

Procedural History

N/A

Background Information

Multiple school operation is common among high-performing charter school networks in many parts of the country. The May 2010 amendments to the New York State Charter School Act eliminated language that prohibited education corporations in New York from operating more than one charter school, and now allows charter schools and the families they serve to realize the many potential benefits of governance and operational consolidation.

The merger of existing charter school governing boards requires revisions to each of the charters of the merging schools, which must be approved by the respective chartering entity or entities involved. This means that, in situations where schools that wish to merge have different chartering entities (“cross-entity merger”), the approval of all parties – the boards of trustees of the schools and each chartering entity – is required before any such merger may occur.

KIPP NYC Washington Heights Academy Charter School (“WHACS”) is a charter school authorized by the Board of Regents. KIPP S.T.A.R. College Preparatory Charter School (“KIPP S.T.A.R.”) is a charter school which is currently authorized by the Trustees of the State University of New York (“SUNY Trustees”).

The WHACS Board of Trustees has requested that the Board of Regents merge KIPP S.T.A.R. into WHACS, with WHACS as the surviving education corporation, and approve proposed revisions to WHACS' provisional charter and charter to conform to the merger. This action would terminate the existence of KIPP S.T.A.R. as an education corporation, bring the KIPP S.T.A.R. charter school under the authorization of the Board of Regents, and authorize the WHACS Board of Trustees, as the surviving education corporation, to operate both charter schools: WHACS and KIPP S.T.A.R. Furthermore, WHACS has requested approval for the surviving education corporation to change its name to KIPP NYC Public Charter Schools. In addition, KIPP S.T.A.R. seeks renewal of its charter term through June 30, 2018.

At their regularly scheduled meeting in June, 2012, the SUNY Trustees approved revisions to the charter for KIPP S.T.A.R. to permit it to merge with WHACS. (Attachment A). The New York City Department of Education held a required public hearing regarding the proposed charter revision and merger on May 31, 2012.

The charts below provide information about each of the schools.

KIPP NYC Washington Heights Academy Charter School

Name of Charter School	KIPP NYC Washington Heights Academy Charter School
Applicant	Jack Chorowsky, COO, KIPP NYC, LLC
Management Company	KIPP NYC, LLC
Other Partner(s)	N/A
District of Location	Community School District 6 (New York City)
Facility	21 Jumel Place, New York, New York 10032 Public NYC-DoE facility
School Opened For Instruction	September 2012
Current Charter Term	July 1, 2012, through June 30, 2017
Current Grade Levels/ Number of Students	2012-2013 school year Grade 5, with 90 students
Maximum Enrollment	695 students through charter term; approved for 1060 students, grades K through 12 at full growth
Proposed Revisions	Merger of WHACS and KIPP S.T.A.R. with WHACS as the surviving education corporation that would operate both schools; renaming the education corporation as KIPP NYC Public Charter Schools.

The Board of Regents approved and chartered WHACS located in New York City Community School District 6 in September 2011. The School was approved to enroll 90 students in Grade 5 in Year 1¹. The charter permits the School to expand to serve 695 students in grades K through 2, and 5 through 9 through the 2016-2017 school year. At full capacity, the School will have a maximum enrollment of 1,060 students in grades K through 12 in 2019-2020².

WHACS is in Year 1 and has not administered examinations in English language arts (ELA) or mathematics to students.

WHACS is in Year 1 and has not received an annual financial audit.

¹ KIPP NYC Washington Heights Academy Charter School, *Summary, Findings and Recommendation* (9.06.11), pg. 2

² KIPP NYC Washington Heights Academy Charter School, *Summary, Findings and Recommendation* (9.06.11), pg. 2

KIPP S.T.A.R. College Preparatory Charter School

Name of Charter School	KIPP S.T.A.R. College Preparatory Charter School
Applicant	Jack Chorowsky, COO, KIPP NYC, LLC
Management Company	KIPP NYC, LLC
Other Partner(s)	N/A
District of Location	Community School District 5 (New York City)
Facility	Three separate NYC-DoE public school facilities
School Opened For Instruction	August 2003
Current Charter Term	August 1, 2008, through July 31, 2013
Current Grade Levels/ Number of Students	2012-2013 school year Kindergarten through Grade 1 with 200 students; Grades 5 through 12 with 729 students
Maximum Enrollment	Grades K through 12; 729 students
Renewal Application	Renewal charter for a period of five years beginning July 1, 2013 through June 30, 2018 as part of a merged educational corporation and increase enrollment to 1057 students, grades K through 12.

The initial charter for KIPP S.T.A.R. was granted by the SUNY Trustees on March 25, 2003. The SUNY Trustees voted to approve a second renewal in July 2008, which permitted the School to enroll students in grades K through 3. The School proposed to change the grade configuration from 5-8 to add elementary grades K-3. In July 2009, the School sought and was granted a revision to its second renewal charter. The revision delayed the offering of grade K education from 2009-10 until 2010-11 and permitted the School to co-locate grades 9 through 12 in a shared facility with three other KIPP high schools. The School's current charter term expires on July 31, 2013.

As part of the Department's due-diligence review, Department staff reviewed evidence and data related to both the revision/merger request and the KIPP S.T.A.R. renewal request, including but not limited to:

- Student academic performance at the two schools;
- Fiscal and operational performance at the two schools³;
- The degree to which the schools have adhered to applicable law and regulation; and
- Formal written charter revision request submitted by the School's Boards of Trustees.

Academic performance information for KIPP S.T.A.R. is presented in Attachment B. Fiscal information for KIPP S.T.A.R is presented in Attachment C.

³ At this time, WHACS does not have fiscal performance information, as the school just opened for instruction in Fall 2012.

Recommendations

Education Corporation Merger

VOTED: That pursuant to the authority contained in Education Law §§223 and 2853(1)(b-1)

1. KIPP NYC Washington Heights Academy Charter School and KIPP S.T.A.R. College Preparatory Charter School be and hereby are consolidated, with KIPP NYC Washington Heights Academy Charter School as the surviving corporation under a change of name to KIPP NYC Public Charter Schools.
2. KIPP NYC Public Charter Schools, the surviving corporation, shall continue to administer the educational operations and purposes of the constituent corporations in the same manner as they presently exist.
3. The separate existence of the education corporation KIPP S.T.A.R. College Preparatory Charter School hereby ceases, and KIPP NYC Public Charter Schools, the surviving corporation, is hereby vested with all the rights, privileges, immunities, powers and authority possessed by or granted by law to each of the constituent corporations. All assets and liabilities of the respective constituent corporations are hereby assets and liabilities of such surviving corporation. All property, real, personal and mixed and all debts to each of the corporations on whatever account are hereby attached to KIPP NYC Public Charter Schools, the surviving corporation, and may be enforced against it to the same extent as if the debts, liabilities and duties had been incurred or contracted by it.
4. The consolidated corporation shall operate under the provisional charter granted to KIPP NYC Washington Heights Academy Charter School, which is hereby amended as follows:
 - The name of the surviving education corporation, KIPP NYC Washington Heights Academy Charter School, is changed to "KIPP NYC Public Charter Schools."
 - KIPP NYC Public Schools is authorized to operate two K-12 public charter schools as follows:
 - 1) KIPP NYC Washington Heights Academy Charter School, which is a K-12 school, will operate a school program for grades K-4 located at 586 W 177th St, New York, NY 10033 (co-located with PS #115) and a school program for grades 5-8 located at 21 Jumel Place, New York, NY 10032 (co-located with MS #90) whose students will articulate into KIPP NYC College Prep High School located at 625 West 133rd Street, New York, NY 10027.
 - 2) KIPP S.T.A.R. College Preparatory Charter School, which is a K-12 school, will operate a school program for grades K-4 which will be co-

located in NYCDOE space beginning in the 2014-15 school year⁴, and a school program for grades 5-8 at 423 W 123rd St, New York, NY 10027 (co-located with PS #125) whose students will articulate into KIPP NYC College Prep High School located at 625 W 133rd Street, New York, NY 10027;

5. The consolidation herein shall take effect immediately; and it is further

VOTED: That the Board of Regents finds that the proposed revised charter: (1) meets the requirements set out in Article 56 of the Education Law, and all other applicable laws, rules and regulations; (2) will operate in an educationally and fiscally sound manner; (3) 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; and (4) will have a significant educational benefit to the students expected to attend the charter school, and the Board of Regents therefore approves the charter revisions for KIPP NYC Washington Heights Academy Charter School.

KIPP S.T.A.R. College Preparatory Charter School Renewal

VOTED: That the Board of Regents finds that the proposed renewal application: (1) meets the requirements set out in Article 56 of the Education Law, and all other applicable laws, rules and regulations; (2) will operate in an educationally and fiscally sound manner; (3) 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; and (4) will have a significant educational benefit to the students expected to attend the charter school, and the Board of Regents therefore approves the charter renewal for KIPP S.T.A.R. College Preparatory Charter School with proposed enrollment plan and amend the provisional charter accordingly through June 30, 2018.

Timetable for Implementation

The Regents actions will become effective immediately.

Attachments

⁴ NYCDOE school siting for 2014-15 school year has not yet taken place.



The State University
of New York

Office of the
Board of Trustees

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Albany, New York 12246

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MEMORANDUM

June 28, 2012

To: Members of the Charter Schools Committee

From: Joseph W. Belluck, Chair, Charter Schools Committee

Subject: Revision to Merge KIPP S.T.A.R. College Preparatory Charter School (Bronx/Manhattan) into KIPP NYC Washington Heights Academy Charter School (Manhattan)

Action Requested

The proposed resolution authorizes a revision to the charter of an education corporation authorized by the Board of Trustees to enable it to merge into an education corporation authorized by the Board of Regents with the Regents' education corporation being the sole surviving corporation. The resolution also permits certain amendments to the charter agreement and terms of operation of KIPP S.T.A.R. College Preparatory Charter School as will be determined by the Institute to meet the merger requirements of the Board of Regents and/or its designee. As a result of the merger, the SUNY education corporation will lose its separate corporate existence and SUNY will end its authorizing relationship with the school.

Resolution

I recommend that the Charter Schools Committee adopt the following resolution:

Whereas the following charter school education corporations:

- KIPP S.T.A.R. College Preparatory Charter School ("KIPP STAR") (authorized by the Board of Trustees and located in Manhattan and the Bronx); and
- KIPP NYC Washington Heights Academy Charter School ("KIPP WHA") (authorized by the Board of Regents and located in Manhattan);

(collectively, the "Constituent Corporations") desire to merge whereby KIPP WHA would be the sole successor corporation (the "Merger"); and

To Learn
To Search
To Serve

the Power of 

Whereas the Constituent Corporations further desire to change the successor education corporation's name to "KIPP NYC Charter Schools," and to amend their charter agreements and terms of operation such that the schools currently operated by the Constituent Corporations would have terms of operation consistent with the requirements set forth by the Board of Regents in the KIPP WHA charter (collectively, with the Merger, the "Proposed Changes in Program"); now, therefore, be it

Resolved that pursuant to New York Education Law subdivision 2851(1)(b-1)(i), the proposed revisions to: the charter of KIPP STAR to permit the education corporation to merge into KIPP WHA and implement the Proposed Changes in Program, be, and hereby are, approved; and, be it further

Resolved that if the Board of Regents declines to approve or otherwise effectuate the Proposed Changes in Program, KIPP STAR shall not be permitted to seek renewal of its charter by the SUNY Trustees; and, be it further

Resolved that the Charter Schools Committee finds: 1) the Proposed Changes in Program including each of the revisions set forth above and described below needed to implement same, meet the requirements of Article 56 of the Education Law (and all other applicable laws, rules and regulations); 2) approval of the Proposed Changes in Program (together with the proposed the merged KIPP NYC Charter Schools' charter) would permit the merged KIPP NYC Charter Schools to operate in an educationally and fiscally sound manner; and 3) approval of the Proposed Changes in Program are likely to improve student learning and achievement and materially further the objectives of the New York Charter Schools Act of 1998 (as amended); and, be it further

Resolved that the SUNY Charter Schools Institute (the "Institute"), be, and hereby is, directed to: 1) enter into proposed revisions to KIPP STAR's charter, such proposed revisions to incorporate the terms and conditions of the Proposed Changes in Program and such assurances and terms as the Institute shall deem necessary and appropriate; 2) thereafter to submit such revisions to the Board of Regents for its review, comment and potential approval; and 3) to make such other and further revisions as are deemed necessary by the Board of Regents or its designee to effectuate the merger and the purposes of this resolution.

Background

Pursuant to a resolution dated June 12, 2012, the Board of Trustees delegated authority to approve charter revisions for the merger charter school education corporations to the Charter Schools Committee (the "Committee").

The SUNY Charter Schools Institute (the "Institute") determined that the changes set forth in this resolution require revision of the charter of KIPP S.T.A.R. College Preparatory Charter School ("KIPP STAR") pursuant to Education Law subdivision 2852(7), which must be approved by the Board of Trustees in its capacity as a "charter entity" under the New York Charter Schools Act of 1998 (as amended, the "Act").

Pursuant to Education Law subdivision 2857(1), the Institute notified the school district of location of the charter school education corporation regarding the receipt of an application for charter revision (copy on file in the Albany Office of the Institute). As of June 15, 2012, the Board of Trustees did not receive any comments in response.

The Institute reviewed the Petition for Merger, Acknowledgements, Certificate of Merger, Plan of Merger, and Certificate of Approval of Plan of Merger and the operating terms of the merger corporation from a legal perspective and finds them suitable under the Act and applicable law. Therefore, the Institute recommends that the Committee approve the requested revision.

If the merger is approved by the Committee, the revisions effectuating the merger must be submitted to the Board of Regents together with a proposed revision by KIPP NYC Washington Heights Academy Charter School ("KIPP WHA") (authorized by the Board of Regents) for action by the Board of Regents. If the Board of Regents does not approve the revision of the charter of KIPP STAR to merge with KIPP WHA, KIPP STAR has agreed that it will not subsequently seek renewal from the SUNY Trustees in accordance with the *Policies of the Board of Trustees of the State University of New York for the Replication of Charter Schools*. If the revision is not approved by the Board of Regents, the result of KIPP STAR not seeking renewal in accordance with SUNY Trustee renewal policies means the school will close at the conclusion of the 2012-2103 school year. The merger would not be effective until approved by the Board of Regents.

Attachment B

Department's Analysis of School Student Performance for KIPP S.T.A.R.

Without controlling for student demographic differences, the aggregate percentage of students at KIPP S.T.A.R. scoring proficient (Level 3 and 4) on the New York State assessments was compared to the other public and charter schools in New York City Demographic District #5 and the State (*Table 1*). Comparing KIPP S.T.A.R. to itself and using the prior year's performance as a baseline, the data shows that from 2009-10 to 2011-12 school years, KIPP S.T.A.R. averaged of 4% performance gains in ELA yet remained flat in math gains. In an aggregate comparison to the district, in 2012 KIPP S.T.A.R. scored lower than NYC District #5 in 2012 in math, yet both the school and the district outperformed the State average in the same year. However, in 2010, KIPP S.T.A.R. underperformed both the district (-3%) and the State (-23%). Though KIPP S.T.A.R.'s performance in ELA has improved since 2010, the school continues to hover just at or above the district average and not exceeding the State average through 2012.

Table 1: Aggregate Percentage of Students Scoring Level 3 and 4 on the NYS Assessments in Grades 5-8

School Year	Grades	Math Proficiency Rates			ELA Proficiency Rates		
		KIPP S.T.A.R.	NYC #5	NYS	KIPP S.T.A.R.	NYC #5	NYS
2012	5-8	73%	75%	70%	39%	39%	60%
2011	5-8	72%	68%	70%	35%	34%	57%
2010	5-8	73%	69%	67%	35%	38%	58%

KIPP S.T.A.R. is a school "In Good Standing," and has never been identified for improvement under the federal Elementary and Secondary Education Act (ESEA), also known as the No Child Left Behind (NCLB) Act. The School has, on average, outperformed Community School District # 5 as the district of location on the State English Language Arts and Mathematics Tests.

CSO staff conducted a renewal site visit to KIPP S.T.A.R. on December 17-18, 2012. The site visit team found instructional quality varied at the site serving grades 5 through 8, and was comparatively better within the co-located grade 9-12 program and at the site serving grades K and 1. Team members observed broad ranges of student engagement, instructional quality, and unevenness in the application of effective teaching strategies and classroom management.

The School promotes a strong culture of learning and scholarship, but evidence of adherence to classroom management practices was less coherent in grades 5 through 12. Students have clear expectations for behaviors and routines though teachers inconsistently followed through with reinforcing them. Each site is safe and orderly; students and teachers generally exhibited mutual respect for one another.

The co-located program serving grades 9 through 12 has had one instructional leader. The site serving grades K and 1 is in its first year of operation, and has had one instructional leader. The site serving grades 5 through 8 has had instability in instructional leadership. The School has had four school leaders since 2008. The newly-appointed leader at this site has been at the school for several years as an instructor and creates a sense of continuity but currently spends part of the time providing instruction to Grade 8 students.

Fiscal Information for KIPP S.T.A.R.

Directors of Finance and their support team meet with school leaders to facilitate the school budget planning and to review monthly financial reports. Principals work with a technical support person and the KIPP NYC Superintendent to ensure alignment of the instructional plan and the budget.

The School has received unqualified audits for each year of the charter term. Auditors have not made findings of material weaknesses or significant deficiencies over internal control. For the fiscal year ending June 30, 2012, the School reported total assets of \$2,046,026 and total liabilities of \$135,016. The School reported a net decrease in cash of \$213,651, and a year-ending cash balance of \$778,068. KIPP S.T.A.R. has run operating deficits of \$144,609 and \$370,243 in the past two fiscal years. In 2012 and 2011, management fee revenue amounted to \$3.6M and \$2.74M, respectively.

KIPP S.T.A.R., with total assets of \$2,046,026 (FY '12), has run operating deficits of \$144,609 and \$370,243 in the past two fiscal years. In 2013, the School will require more than \$1.5M in contributions to generate a modest surplus of \$141,998. Similarly, a pattern of significant gaps emerge in analyzing the revenue from the CMO's operations, exclusive of fundraising and the expense trends of the organization. In 2012 and 2011, management fee revenue amounted to \$3.6M and \$2.74M, respectively. In the same years, the combined program and support service expenses for KIPP NYC LLC totaled \$10.7M and \$12.8M, respectively.

Exclusive of fundraising contributions, the CMO's expenses have exceeded revenues by approximately \$17.2M over the past two years. KIPP NY's current spending levels approximate the amount to be paid (\$18M) to NYCDOE in 2014 to support the development of the new high school facility in the Bronx.

A review of the Financial Statements and Independent Audit reports submitted to the State show that the KIPP S.T.A.R. has consistently operated in a fiscally sound and responsible manner. The most recent audit report (October 2012) from reported no findings of deficiencies in internal financial controls or reporting. Additionally, the Department's Office of Audit Services has compiled the School's financial data for the last three years and determined a composite score of 1.90 in 2010, 2.50 in 2011, and 2.60 in 2012 indicating that the School demonstrates good overall financial health and stability.

The CMO provided a consolidated budget for the merged schools, and annual projected enrollment plans for each school (see pages 3-4 of this Attachment).

Given the projected shortfalls within the operating budget presented and the reliance of contributions (\$3,733,518 over three years), Department staff conducted an analysis of the audited financial statements of the CMO. According to the 2012 Audited Financial Statements of the organization, KIPP New York, Inc. must pay the New York City Department of Education \$18M on or before June 30, 2014, to cover expenses related to facilities. The CMO has done extensive fundraising over the past two years (\$27M total in FY'11 and FY '12). In FY 2012, KIPP NY reported total assets of \$22,920,122 and liabilities of \$1,963,757. Among those assets were \$13.2M in cash and \$8.9M in contributions receivable. In 2011, the entity reported total assets of \$21.2M and liabilities of \$3.36M. The organization recorded approximately \$8.6M in cash, and \$12.4M in contributions receivable. In 2011, the CMO's total revenue was reported at \$26.88M, with expenses of \$12.87M. The organization also noted \$11M in temporarily restricted assets. "During the Years ended June 30, 2012 and 2011, the Organization (KIPP NY, Inc.) granted \$1,788,615 and \$3,108,522, respectively to the KIPP NYC Charter Schools."¹ However, at the end of the 2012 fiscal year, the management company for KIPP charter schools owed \$1,555,349 combined to the four schools under management (\$827,671 to KIPP S.T.A.R.). At the end of the 2011 fiscal year, the management company owed \$3,073,005 (\$497,968 to KIPP S.T.A.R.).

In 2012 and 2011, management fee revenue amounted to \$3.6M and \$2.74M, respectively. In the same years, the combined program and support service expenses for KIPP NY totaled \$10.7M and \$12.8M, respectively. Exclusive of fundraising contributions, the CMO's expenses have exceeded revenues by approximately \$17.2M over the past two years. Further, in 2010, KIPP NY reported total revenue of \$6.39M (with contributions of \$971K) and expenses of \$7.45M, for a one-year operating deficit of \$1,013,804. KIPP New York submitted their balance sheet for the current year. As of September 30, 2012, the entity had an operating deficit of \$842,997. Financials for the most recent quarter were not available at the time of our request for data.

The projected fiscal impact of the proposed grade expansion on the CSD 6, assuming annual inflation of the charter tuition rate based on past data and 2.0% annual growth of district budget, is less than one-half of 1.00% over the next 5 years.

¹ Notes to FY '12 Consolidated Financial Statements, Note 5 – Related Party Transactions, page 10.

KIPP NYC Washington Heights Academy Charter School
Approved Enrollment Plan*

Grade	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Kindergarten	0	0	100	100	100
First	0	0	0	100	100
Second	0	0	0	0	100
Third	0	0	0	0	0
Fourth	0	0	0	0	0
Fifth	90	90	90	90	90
Sixth	0	84	84	84	84
Seventh	0	0	78	78	78
Eighth	0	0	0	73	73
Ninth	0	0	0	0	70
Tenth	0	0	0	0	0
Eleventh	0	0	0	0	0
Twelfth	0	0	0	0	0
Total Enrollment	90	174	352	525	695

*At full growth, the school will serve 1,060 students.

KIPP STAR College Preparatory Charter School
Current Enrollment Plan

Grade	2012-2013
Kindergarten	80
First	80
Second	80
Third	0
Fourth	0
Fifth	90
Sixth	85
Seventh	80
Eighth	77
Ninth	45
Tenth	41
Eleventh	38
Twelfth	35
Total Enrollment	729

* Revision to Second Renewal Charter – July 2009

KIPP STAR College Preparatory Charter School
Proposed Enrollment Plan

Grade	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Kindergarten	100	100	100	100	100
First	100	100	100	100	100
Second	0	100	100	100	100
Third	0	0	100	100	100
Fourth	0	0	0	100	100
Fifth	84	84	84	84	84
Sixth	84	84	84	84	84
Seventh	78	78	78	78	78
Eighth	72	72	72	72	72
Ninth	68	68	68	68	68
Tenth	62	62	62	62	62
Eleventh	57	57	57	57	57
Twelfth	57	57	57	57	57
Total Enrollment	757	857	957	1,057	1,057