



TO: P-12 Education Committee

FROM: Angelique Johnson-Dingle *Angelique Johnson-Dingle*

SUBJECT: Renewal Recommendations for Charter Schools Authorized by the Buffalo Public Schools Board of Education

DATE: April 4, 2024

AUTHORIZATION(S): *Betty M...*

SUMMARY

Issue for Decision

Should the Board of Regents approve the proposed renewal charters for the following charter schools authorized by the Buffalo Public Schools Board of Education pursuant to Article 56 of the Education Law (the New York Charter Schools Act)?

1. **Enterprise Charter School** (five-year renewal)
2. **Westminster Community Charter School** (five-year renewal)

Reason(s) for Consideration

Required by State statute.

Proposed Handling

This issue will be before the P-12 Education Committee for recommendation and the Full Board for action at the April 2024 Regents meeting.

Procedural History

The Buffalo Public Schools Board of Education (BPS-BOE), as the charter authorizer for the above-named schools, approves and recommends the renewal recommendations described below for approval and issuance of renewal charters as required by Article 56 of the Education Law.

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 BPS-BOE-authorized charter schools is as follows:

- The BPS-BOE develops a recommendation for the Board of Regents for the issuance of a charter renewal or a revision for an existing charter.
- The recommendation is sent to the Department and the Board of Regents has 90 days to act or the recommendation goes into effect by operation of law.
- Once a charter recommendation is received by the Department, the Board of Regents has four options:
 1. Consider the recommendation and vote on it. If the vote is affirmative, the action is effective immediately, or as otherwise recommended by the BPS-BOE.
 2. If the Board of Regents chooses not to vote in the affirmative, the recommendation is sent back to the BPS-BOE with comments. The BPS-BOE must reconsider its recommendation and can choose one of the following:
 - a) resubmit the proposed charter to the Board of Regents with modifications, provided that the applicant consents in writing to such modifications;
 - b) resubmit the proposed charter to the Board of Regents without modifications; or
 - c) abandon the proposed charter.

If the recommendation is resubmitted to the Board of Regents, the Department and the Board of Regents have 90 days to act or the recommendation goes into effect by operation of law.

3. The Board of Regents can defer action to a later date. The 90-day time period continues to accrue, and the proposed charter renewal will take effect by operation of law if no action is taken by the Board within those 90 days.
4. The Board of Regents can choose to not take action on a BPS-BOE recommendation and allow the charter renewal to go into effect by operation of law 90 days after the initial submission to the Department.

The BPS-BOE has proposed five-year renewals for both schools, from July 1, 2024, and ending June 30, 2029. These recommendations stem from the settlement of litigation filed by the Enterprise Charter School and the Westminster Community Charter School

challenging BPS-BOE's original decision not to renew either school's charters in 2021. The Regents approved three-year renewals for both schools, retroactive to July 1, 2021, in June 2022. These renewals are effective through June 30, 2024.

The New York State Education Department ("Department") has reviewed the renewal recommendations forwarded by the BPS-BOE for Enterprise Charter School and Westminster Community Charter School. While BPS-BOE may believe it is required by its settlement agreement to recommend five-year renewals for both schools, the Department was not a party to such agreement, and the information submitted to the Department does not conclusively show that all terms of the settlement stipulation were satisfied. In any event, any settlement cannot override the requirements and statutory findings an authorizer and the Regents must make when considering a charter renewal or revision.

The Department has concerns related to both schools in the areas of academic success and the numbers of students served in the subgroups compared to the district of location. More specifically, the Department's review concludes that there is insufficient evidence of academic success by the schools, as required by the Education Law, and that the schools failed to serve comparable numbers of students with disabilities and English language learners/multi-lingual learners (ELLs/MLLs) as compared to the district of location. The Department does not believe that the academic and enrollment indicators for both schools support five-year renewals.

Below is a summary of the most recent data available for both schools:

Enterprise Charter School

Students perform an average of 16 percentage points below the district in math, and 45 percentage points below the State in math. In ELA, students perform 15 percentage points below the district and 36 percentage points below the State. The school also serves 16 percentage points fewer students with disabilities (SWDs) and 21 percentage points fewer ELLs/MLLs when compared to the district of location. According to the renewal report submitted by BPS-BOE, the school is meeting expectations for student performance based on the terms set forth in the settlement agreement between the schools and BPS-BOE.¹ However, the school is not meeting NYSED Performance Framework benchmarks that BPS-BOE used in its renewal report² and the Board of Regents has endorsed as the metrics charter schools must demonstrate to signify that they are providing a significant educational benefit to the students they serve.

¹ Enterprise and Westminster, in consultation with BPS-BOE, committed to utilizing the i-Ready diagnostic assessment platform for student performance accountability during the term of the settlement agreement, which included the COVID pandemic. In the last renewal item, it was noted that utilization of i-Ready assessments should not discount the two charter schools' performance in State ELA and Math Assessments during the renewal period and, in any event, analogous improvement was expected in State assessment data.

² BPS-BOE stated that it asked the two renewal schools listed in this item to self-report their progress towards the ten benchmarks of the NYSED Performance Framework.

Westminster Community Charter School

Students perform an average of 6 percentage points above the district in math, and 23 percentage points below the State in math. In ELA, students perform 1 percentage point below the district and 22 percentage points below the State. The school also serves 16 percentage points fewer SWDs and 1 percentage point fewer ELLs/MLLs when compared to the district of location. According to the renewal report submitted by BPS-BOE, the school is meeting expectations for student performance based on the terms set forth in the settlement agreement between the schools and BPS-BOE. However, the school is still not meeting NYSED Performance Framework benchmarks which BPS-BOE used in its renewal report and the Board of Regents has endorsed as the metrics charter schools must demonstrate to signify that they are providing a significant educational benefit to the students they serve.

In summary, based on the Department's review of the performance data, the concerns BPS-BOE has acknowledged with respect to the state assessment outcomes for the charter schools listed in this item, and the results of the renewal reports submitted to the Department by BPS-BOE, we recommend that the Board of Regents consider these concerns when voting to renew the charters for these two BPS-BOE authorized charter schools.

Included as attachments hereto are BPS-BOE's renewal report for the schools (Attachment A) and the Department's reports (Attachment B). The BPS-BOE renewal report was not drafted or reviewed by the Department.

Related Regents Items

Enterprise Charter School

March 2003: [Initial Charter](#)

(<https://www.regents.nysed.gov/common/regents/files/documents/meetings/2003Meetings/March2003/0303emsca1.pdf>)

June 2004: [Enrollment Expansion \(to add at least one grade each year, currently K-8\)](#)

(<https://www.regents.nysed.gov/common/regents/files/documents/meetings/2004Meetings/June2004/0604emscvesida2.htm>)

July 2005: [Enrollment Expansion \(to add at least one grade each year, currently K-9\)](#)

(<http://www.regents.nysed.gov/common/regents/files/documents/meetings/2005Meetings/July2005/0705brca15.htm>)

July 2006: Enrollment Expansion (to add at least one grade each year, currently K-10)

<http://www.regents.nysed.gov/common/regents/files/documents/meetings/2006Meetings/July2006/0706brca9.htm>

March 2008: [First Renewal and Enrollment Decrease \(remove grades 9-12, serve K-8\)](#)

(<https://www.regents.nysed.gov/meetings/2008Meetings/March2008/0308emsca4.htm>)

January 2010: [Second Renewal](https://www.regents.nysed.gov/meetings/2010Meetings/January2010/0110emsca12.htm)
(https://www.regents.nysed.gov/meetings/2010Meetings/January2010/0110emsca12.htm)

July 2013: [Third Renewal](http://www.regents.nysed.gov/common/regents/files/913bra2.pdf)
(http://www.regents.nysed.gov/common/regents/files/913bra2.pdf)

March 2014: [Fourth Renewal](http://www.regents.nysed.gov/common/regents/files/413bra2_1.pdf)
(http://www.regents.nysed.gov/common/regents/files/413bra2_1.pdf)

April 2016: [Fifth Renewal](http://www.regents.nysed.gov/common/regents/files/416p12a8-revised.pdf)
(http://www.regents.nysed.gov/common/regents/files/416p12a8-revised.pdf)

April 2019: [Initial BPS-BOE Recommendation for the Fourth Renewal – Returned to BPS-BOE by the Board of Regents](https://www.regents.nysed.gov/common/regents/files/419p12a6REVISED.pdf)
(https://www.regents.nysed.gov/common/regents/files/419p12a6REVISED.pdf)

June 2019 [Fourth Renewal](https://www.regents.nysed.gov/common/regents/files/619p12a3.pdf)
(https://www.regents.nysed.gov/common/regents/files/619p12a3.pdf)

June 2022: [\(nunc pro tunc to June 2021\) Fifth Renewal](https://www.regents.nysed.gov/sites/regents/files/622p12a5.pdf)
(https://www.regents.nysed.gov/sites/regents/files/622p12a5.pdf)

Westminster Community Charter School

July 2004: [Initial Charter](http://www.regents.nysed.gov/common/regents/files/documents/meetings/2004Meetings/July2004/0704bra5.htm)
(http://www.regents.nysed.gov/common/regents/files/documents/meetings/2004Meetings/July2004/0704bra5.htm)

January 2009: [First Renewal](http://www.regents.nysed.gov/meetings/2009Meetings/January2009/0109emsca7.htm)
(http://www.regents.nysed.gov/meetings/2009Meetings/January2009/0109emsca7.htm)

June 2014: [Second Renewal](http://www.regents.nysed.gov/common/regents/files/514p12a1.pdf)
(http://www.regents.nysed.gov/common/regents/files/514p12a1.pdf)

June 2016: [Third Renewal](http://www.regents.nysed.gov/common/regents/files/616p12a4revised.pdf)
(http://www.regents.nysed.gov/common/regents/files/616p12a4revised.pdf)

April 2019: [Initial BPS-BOE Recommendation for the Fourth Renewal – Returned to BPS-BOE by the Board of Regents](https://www.regents.nysed.gov/common/regents/files/419p12a6REVISED.pdf)
(https://www.regents.nysed.gov/common/regents/files/419p12a6REVISED.pdf)

June 2019: [Fourth Renewal](https://www.regents.nysed.gov/common/regents/files/619p12a3.pdf)
(https://www.regents.nysed.gov/common/regents/files/619p12a3.pdf)

June 2022: [\(nunc pro tunc to June 2021\) Fifth Renewal](https://www.regents.nysed.gov/sites/regents/files/622p12a5.pdf)
(https://www.regents.nysed.gov/sites/regents/files/622p12a5.pdf)

Recommendation

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

VOTED: That the Board of Regents return the proposed charter renewal recommendation for the **Enterprise Charter School** to the Buffalo Public Schools Board of Education for reconsideration with the following comment and recommendation: A shorter charter term should be considered based on the insufficient evidence of academic success by the applicant, the school's failure to serve comparable numbers of students with disabilities (SWDs) and English language learners/multi-lingual learners (ELLs/MLLs) when compared to the district of location; and failure to meet or exceed other Performance Framework benchmarks, as set forth in the renewal report. Specifically, based on the most recent data available, Enterprise Charter School students perform an average of 16 percentage points below the district in math, and 45 percentage points below the State in math. In ELA, students perform 15 percentage points below the district and 36 percentage points below the State. The school also serves 16 percentage points fewer SWDs and 21 percentage points fewer ELLs/MLLs when compared to the district of location. It is recommended that the Buffalo Public Schools Board place Enterprise Charter School on a corrective action plan and transmit a copy of the corrective action plan to the Board of Regents no later than 6 months after the effective date of a potential charter renewal. The corrective action plan, collaboratively developed between Buffalo Public Schools and the school, should contain observable, measurable, and time-bound interim progress and outcome measures and address the academic deficiencies noted above as well as other academic, operational, financial, and legal areas of concern, if any. Furthermore, it is recommended that such corrective action plan have interim benchmarks towards compliance with Performance Framework standards for which Enterprise Charter School will report progress, in writing, to the Buffalo Public Schools Board regularly throughout the next charter term at intervals no greater than once every three months.

VOTED: That the Board of Regents return the proposed charter renewal recommendation for the **Westminster Community Charter School** to the Buffalo Public Schools Board of Education for reconsideration with the following comment and recommendation: A shorter charter term should be considered based on the insufficient evidence of academic success by the applicant, the school's failure to serve comparable numbers of students with disabilities (SWDs) and English language learners/multi-lingual learners (ELLs/MLLs) when compared to the district of location; and failure to meet or exceed other Performance Framework benchmarks, as set forth in the renewal report. Specifically, Westminster Community Charter School students perform an average of 6 percentage points above the district in math, and 23 percentage points below the State in math. In ELA, students perform 1 percentage point below the district and are 22 percentage points below the State. The school also serves 16 percentage points fewer SWDs and 13 percentage points fewer ELLs/MLLs when compared to the district of location. It is recommended that the Buffalo Public Schools Board place Westminster Community Charter School on a corrective action plan and transmit a copy of the corrective action plan to the Board of Regents no later than 6 months after the effective date of a potential charter renewal. The corrective action plan, collaboratively developed between Buffalo Public Schools and the school, should contain observable, measurable, and time-bound interim progress and outcome measures and address the academic deficiencies noted above as well as other academic, operational, financial, and legal

areas of concern, if any. Furthermore, it is recommended that such corrective action plans have interim benchmarks towards compliance with Performance Framework standards for which Westminster Community Charter School will report progress, in writing, to the Buffalo Public Schools Board regularly throughout the next charter term at intervals no greater than once every three months.

Timetable for Implementation

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