



TO: P-12 Education Committee

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

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

DATE: June 8, 2023

AUTHORIZATION(S): *Betty Johnson-Dingle*

SUMMARY

Issue for Decision

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

- **Bronx Charter School for Better Learning II** (Three-year renewal term from 2025 to 2028);
- **Harlem Village Academy East Charter School** (Three-year renewal term from 2025 to 2028); and
- **Harlem Village Academy West 2 Charter School** (Four-year renewal term from 2024 to 2028).

Reason(s) for Consideration

Required by State statute.

Proposed Handling

This issue will come before the P-12 Education Committee for recommendation to the Full Board for action at its June 2023 meeting.

Procedural History

On **March 15, 2023**, the Trustees of the State University of New York ("the Trustees" or "SUNY") approved the renewal charters 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

The Department forwards the proposed renewal charters 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 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 charter for **Bronx Charter School for Better Learning II** was sent to the Department on **April 4, 2023**, and the proposed renewal charters for **Harlem Village Academy East Charter School** and **Harlem Village Academy West 2 Charter School** were sent to the Department on **April 27, 2023**.
- Once a proposed charter is received by the Department, the Board of Regents has two options:
 1. Take no action on the proposed charters, which results in the charter renewals going into effect by operation of law 90 days after the initial submission to the Department (i.e., **July 3, 2023**, for **Bronx Charter School for Better Learning II** and **July 26, 2023**, for **Harlem Village Academy East Charter School** and **Harlem Village Academy West 2 Charter School**).
 2. Consider the proposed charters and vote on them 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 charters back to SUNY with comments, SUNY must reconsider the recommendations and can choose to resubmit the proposed charters to the Board of Regents with modifications, provided that the applicants consent in writing to such modifications; resubmit the proposed charters to the Board of Regents without modifications; or abandon the proposed charters. If the proposed charters are resubmitted to the Board of Regents, for SUNY-authorized charter schools only, the Board of Regents must approve and issue the proposed charters within 30 days of resubmission. If the Board of Regents does not do so, the charters shall be deemed approved and issued at the expiration of such period.

The Department recommends that the Board of Regents take the action of returning the proposed renewals to SUNY for reconsideration.

Returning the proposed renewal charters to SUNY is based on Education Law §2851(4), which provides that “[c]harters may be renewed, upon application, for a term of up to five years...”¹ All authorizers, including the SUNY Trustees, have long followed the practice of renewing charter schools in the academic year in which their charter term expires. This practice is intended to ensure that the most recent data are used in the renewal evaluation. However, in recent years SUNY has on several occasions, as in this instance, departed from this practice.

The SUNY Trustees voted on **March 15, 2023**, to renew the three schools. As noted above, the schools’ current charter terms will not expire until **2025** for **Bronx Charter School for Better Learning II** and **Harlem Village Academy East Charter School** and not until **2024** for **Harlem Village Academy West 2 Charter School**. The new charter terms for all three schools will not end until **2028**. Based on the relevant provisions of the Charter Schools Act, the Department’s position is that the law is not intended to allow a charter entity to grant successive future, or early, renewals.

The law requires² the charter entity to make certain specific findings prior to the issuance of a new or renewal charter. 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. These practices include ensuring that renewal decisions are based on up-to-date data and information that accurately reflects the charter school’s performance and financial 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 the SUNY Trustees recommendations go into effect via operation of law due to the provisions of Education Law §2852(5-b), which mandate the approval of the charter.³

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 comment stated in the recommendation section below.

¹ 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...”

² Education Law §§2851(2) and 2852(2).

³ 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.

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

June 2022: [Return of Proposed Early Renewal Charters](https://www.regents.nysed.gov/sites/regents/files/622p12a7.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/622p12a7.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 **Bronx Charter School for Better Learning II, Harlem Village Academy East Charter School, and Harlem Village Academy West 2 Charter School** 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 economically disadvantaged. The charters should be abandoned, and the schools should be directed to resubmit an application no earlier than one year prior to the expiration of the charter terms. 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 six years, SUNY has repeatedly disregarded Regents’ objections on this matter.

Timetable for Implementation

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