



MEMORANDUM

May 4, 2021

To: Members of the Charter Schools Committee

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

Subject: Resubmission to the Board of Regents of Proposed Renewal Charter of Icahn Charter School 3

Action Requested

The proposed resolution authorizes the resubmission without modification to the New York State Board of Regents of the proposed renewal charter for Icahn Charter School 3, through July 31, 2026, approved by the Charter Schools Committee on December 23, 2020 pursuant to New York Education Law § 2851(4). The resubmission will result in the final approval of the proposed renewal pursuant to Education Law § 2852(5-b) either by operation of law or approval by the Board of Regents.

Resolution

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

Whereas the Charter Schools Committee, acting on behalf of the Board of Trustees, has reconsidered the proposed renewal charter for Icahn Charter School 3 through July 31, 2026 (the "Proposed Renewal Charter Renewal"), which was approved by the Committee on December 23, 2020 (copies on file in the Office of the Secretary of the University and the Albany office of the State University of New York Charter Schools Institute (the "Institute")), taking into consideration the Board of Regents' comments and recommendation to abandon the Proposed Renewal Charter (copies of Board of Regents' resolution, dated April 1, 2021 and approved April 13, 2021, on file in the Office of the Secretary of the University and the Albany office of the Institute); now, therefore, be it

Resolved that the resubmission to the Board of Regents of the Proposed Renewal Charter, being in accordance with the New York Charter Schools Act of 1998 (as amended), be, and hereby is, approved without modification; and, be it further

Resolved that the Institute, acting for the Board of Trustees, be, and hereby is, authorized to resubmit the Proposed Renewal Charter to the Board of Regents for review, final approval, and issuance in accordance with Subdivision 2852(5-b).

Background

The New York Charter Schools Act of 1998 (as amended, the “Act”) permits the Board of Trustees to renew the charters of education corporations it authorizes, and to renew such corporations’ authority to operate charter schools. Pursuant to Resolution No. 2012-038, dated June 12, 2012, the Board of Trustees delegated authority to renew charters to the Charter Schools Committee including the authority to return such items to the Board of Regents.

The SUNY Charter Schools Institute (the “Institute”) recommends the proposed renewal charter for Icahn Charter School 3 (the “Education Corporation”), through July 31, 2026, which the Charter Schools Committee, acting on behalf of the Board of Trustees, approved on December 23, 2020,¹ be resubmitted to the Board of Regents without modification. The Board of Regents voted to return the proposed renewal charter at its April 12-13, 2021 meeting 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.

¹ Committee Resolution No. 33-2020 (available at: <https://www.suny.edu/about/leadership/board-of-trustees/meetings/meetingNotices.cfm?archivedPage=Y#b>) was approved unanimously.

The Act does not limit the timing of when proposed renewal charters (or equivalent revisions) may be sent by a charter entity such as the Board of Trustees to the Board of Regents. See Subdivision 2851(4). In fact, the Act's only reference to renewal timing limits the renewal application period to "no later than six months prior to the expiration of the charter," Subdivision 2851(4). Since June 25, 2005, the SUNY Renewal Policies² have contained a provision for early renewal. SUNY has voted on renewal charters during the school year prior to the school year of charter expiration since 2004.

With respect to SUNY's renewal application review and making the findings required by Subdivision 2852(2), the renewal application for the Education Corporation was complete and reviewed by SUNY in accordance with Subdivisions 2851(4) and 2852(2) as described in the Education Corporation's Renewal Report, dated December 18, 2020. The Charter Schools Committee made the forward-looking findings required by Subdivision 2852(2) as of the date of the resolution including legal requirements, the ability of the Education Corporation to operate in an educationally and fiscally sound manner, and the likelihood to improve student learning and achievement. Notwithstanding the Board of Regents' implication, unlike the new application process described in Subdivision 2852(9-a), the Act's renewal process does not require any findings related to community support even though SUNY reviews public comments.

Pursuant to the Act, the Board of Trustees has three options if the Board of Regents returns a proposed renewal charter: 1) resubmit the proposed renewal charter without modification; 2) resubmit the proposed renewal charter with modification so long as the education corporation agrees; or, 3) abandon the proposed renewal charter. If this resolution is approved, the proposed renewal charter, that renews the Education Corporation through July 31, 2026, will be deemed approved by operation of law 30 days after resubmission to the Board of Regents unless the Board of Regents approves it sooner pursuant to Subdivision 2852(5-b).

² *Policies for the Renewal of Not-for-Profit Charter School Education Corporations and Charter Schools Authorized by the State University Board of Trustees* (last amended September 4, 2013 and available at: <https://www.newyorkcharters.org/wp-content/uploads/SUNY-Renewal-Policies.pdf>).