



## **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 Revision to the Charter of Success Academy Charter Schools - NYC**

### **Action Requested**

The proposed resolution authorizes the resubmission without modification to the New York State Board of Regents of a proposed charter revision, approved by the Charter Schools Committee on December 23, 2020 pursuant to New York Education Law § 2851(4), that permits Success Academy Charter Schools - NYC, a charter school education corporation with the authority to operate 38 schools, to operate two of its schools for additional full terms of five years. The resubmission will result in the final approval of the proposed charter revision 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 charter revision for Success Academy Charter Schools - NYC permitting the full-term renewal of its authority to operate the following charter schools:

- Success Academy Charter School – Bronx 3; and,
- Success Academy Charter School – Harlem 6,

(the “Proposed Charter Revision”), 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 Charter Revision (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 Charter Revision, 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 Charter Revision 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 charter revision for Success Academy Charter Schools – NYC (the “Education Corporation”), which would renew the Education Corporation’s authority to operate each of the charter schools listed in this resolution (the “Schools”) for a full term of five years, and which the Charter Schools Committee, acting on behalf of the Board of Trustees, approved on December 23, 2020,<sup>1</sup> be resubmitted to the Board of Regents without modification. The Board of Regents voted to return the proposed revision at its April 12-13, 2021 meeting with the following comment and recommendation:

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<sup>1</sup> Committee Resolution Nos. 38-2020 & 40-2020, respectively, (available at: <https://www.suny.edu/about/leadership/board-of-trustees/meetings/meetingNotices.cfm?archivedPage=Y#b>) were approved unanimously.

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.

For purposes of analyzing the Board of Regents' recommendation, the Institute interprets "one year prior to the expiration of the charter term" to be a reference to one year prior to the expiration of the Education Corporation's term of authority to operate each School, and not the expiration of the Education Corporation's provisional charter.

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 Policies<sup>2</sup> 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 each School was complete and reviewed by SUNY in accordance with Subdivisions 2851(4) and 2852(2) as described in the Schools' 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 each applicable resolution including legal requirements, the ability of the Education Corporation to operate each School 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.

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<sup>2</sup> *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>).

Pursuant to the Act, the Board of Trustees has three options if the Board of Regents returns a proposed charter revision: 1) resubmit the proposed revision without modification; 2) resubmit the proposed revision with modification so long as the education corporation agrees; or, 3) abandon the proposed revision. If this resolution is approved, the proposed charter revision that renews the Education Corporation's authority to operate each School for five years 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).