

Legislative Review of Charter Schools and SUNY’s Designation as a Charter School Authorizer

With passage of the New York Charter Schools Act of 1998 (“the Act”), New York became the 34th state in the country to expand its statutory definition of “public schools” to include charter schools. The Act called for creation of a system of public charter schools with the authority to offer instruction in Kindergarten through 12th grade that, in many ways, would operate independently of existing schools and school districts. Today, New York is one of 41 states that offer parents choice at the public school level. This year, New York charter schools serve approximately 64,000 students.

Charter Schools Defined

The Act called for schools that, by design, would:

- improve student learning and achievement;
- increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are at-risk of academic failure;
- encourage the use of different and innovative teaching methods;
- create new professional opportunities for teachers, school administrators and other school personnel;
- provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and
- provide schools with a method to change from rule-based to performance-based accountability systems by holding the schools established under the Act accountable for meeting measurable student achievement results.

Applicants

The Act states that teachers, parents, school administrators, and community members can apply to open a new charter school. Applications to create new schools are expansive documents detailing everything from the proposed curriculum and staffing plans, including professional development plans for staff, overall organizational structure, policies and procedures, budgets, facility plans, and more.

Fast Facts

1. In New York State, an initial charter contract is awarded for five years.
2. At the end of every charter term, a charter school must apply to renew its charter.
3. Charter schools are open admissions schools just like district schools.
4. Charter schools do not teach religion and do not charge tuition.
5. Charter schools must comply with laws regarding health, safety, civil rights and special education.
6. The Open Meetings Law and Freedom of Information Act apply to charter schools.
7. Charter schools must comply with the No Child Left Behind (NCLB) Act; administer all the same state tests as district schools; and must meet all state performance requirements.
8. Charter schools are given the freedom to develop their own curriculum, choose staff, and set the length of the school day and year.
9. Charter schools may establish their own standards for student behavior and school environment.
10. In exchange for these freedoms, charter schools must consistently demonstrate that they have raised student achievement or risk being closed down.

Authorizers

The Act initially named three “charter entities,” or authorizers, to receive and review the applications required to establish new charter schools: 1) the Board of Trustees of the State University of New York; 2) the New York State Board of Regents; and 3) local, district boards of education. Authorizers are charged under the statute with ongoing oversight of approved schools, evaluating each school’s application for charter renewal, and informing the public about the progress of each school.

Notably, the Act established a “cap” on the number of charter schools allowed in the state. The Act further designated how many charters each authorizer could award by granting charters to the SUNY Trustees and the Board of Regents. Charters awarded by districts would be counted against the total number of charters allocated to the Board of Regents.

The Act was amended in major respect twice since 1998, each time increasing the number of charter schools allowed under the cap. Today, the cap on the number of charter schools in the state sits at 460 with SUNY and the Board of Regents retaining authority to grant 230 each. The 2007 cap increase of 100 schools reserved 50 schools from all authorizers to be located in New York City. The 2010 cap increase of 260 schools, split between SUNY and the Board of Regents only, limited the number of new schools in New York City to 57 by each authorizer.

New York Charter Schools Act of 1998 as Revised

| | 1998 | 2007 | 2010 |
|--|--------------------------|---------------------------|---------------|
| Charters Allowed Under Legislative Cap in NYS | 100 | 200 | 460 |
| Available Charters are Designated for Award by Authorizer | • SUNY 50 | • SUNY 100 | • SUNY 230 |
| | • Regents & Districts 50 | • Regents & Districts 100 | • Regents 230 |

The most recent revisions to the Act, in 2010, removed the authority of school districts to award new charter schools. Only two districts had ever done so, the Buffalo City School District and the New York City Department of Education. Both district authorizers retained the rights to oversee the schools they had previously authorized and to evaluate school applications for charter renewal.

In addition to increasing the number of charter schools allowed in the state, the May 2010 amendments to the Act also added new requirements for charter school applicants, operating charter schools, and authorizers, including that:

- 1) All requests to establish new charter schools must be submitted in response to an authorizer-developed Request for Proposals (RFP) rather than the “applications” that had been previously used.
- 2) Evidence of effective community outreach has been designated as a minimum eligibility criterion for approval.

- 3) Authorizers must develop targets for the enrollment and retention of at-risk students for each charter school that would be comparable to that of the district in which the charter school is located.

Implementing/properly developing practices in support of these legislative changes has been a significant priority for New York's charter school authorizers.

SUNY's Role as a Authorizer

When the SUNY Trustees were first given responsibility as a state-wide charter school authorizer, the immediate challenge was interpreting the new legislation and putting in place structures and processes for carrying out this important work.

Creation of a Designated Trustee Committee and the SUNY Charter Schools Institute

Like other sectors of responsibility for the State University Trustees, the full Board established a Charter Schools Committee. In addition to creating the Committee, the SUNY Trustees also moved to create the SUNY Charter Schools Institute by way of Board Resolution in 1999 as an independent body solely devoted to assisting the Trustees in implementing their responsibilities under the Charter Schools Act.

The Committee and Institute took the lead in reviewing best practices nationally and developing policies and procedures first for the renewal of charter schools. In fact, the SUNY Trustees became one of the first authorizers in the country to document clear and rigorous expectations for the schools they would authorize when it came time to renew their charter contract. Working backward from there, the SUNY Trustees developed the first application for those seeking to open a new SUNY authorized charter school. As part of that work, clear priorities emerged:

1) Putting the best interests of students *first*.

Since the first charter schools were established in the United States in 1991, this sector of schools has been a source of debate—whether because there is not a separate funding mechanism for charter schools (just as in schools districts, funding follows the student); resistance to change; or legitimate concerns over authorizers or schools not acting in good faith.

The SUNY Trustees specifically committed to working *outside* of this debate, to focus on implementing the law as written and intentionally putting the best interest of students before adults.

2) A true commitment to the accountability premise of charter schools; that underperforming charter schools must be closed down.

SUNY authorized charter schools find the Trustees expect strong performance. The Trustees' track record of approving only the strongest applicants, and closing failing charter schools, demonstrates their commitment to accountability.

In a 2009 Guide on School Closure for the National Association of Charter School Authorizers, then SUNY Trustees Cox and Daniels co-wrote a chapter highlighting SUNY practice, again reflecting on insights established in the early years of SUNY's authorizing

work. “If a school is not meeting the promises made to its students, we have an obligation to close the school down. This is our mandate from the legislature and it is at the heart of what makes a charter school a charter school.”

The SUNY Trustees charged the Charter Schools Institute with: evaluating initial applications to establish new charter schools and making recommendations regarding approval to the Committee; ongoing oversight and evaluation of approved schools; conducting a comprehensive evaluation when a school applies to renew its charter and preparing renewal recommendations for consideration by the Committee; and finally, for reporting to the school and the public on each school’s performance and progress by way of comprehensive reports that are intentionally candid.

As SUNY began evaluating its first applications for new charter schools in late 1999 and early 2000, the reputation of the Institute and SUNY’s work as a charter school authorizer also began to grow.

In 2000, SUNY became a founding member of the National Association of Charter School Authorizers (NACSA); an organization that would be dedicated to assisting authorizers in the creation of high quality charter schools. In some measure because of its partnership with SUNY, NACSA has become a critically important vehicle in disseminating quality practices to the more than 800 charter authorizers that exist in the United States today.

The Institute’s mission statement supports the State University Trustees commitment to the guiding principles of the Charter Schools Act.

Institute Mission Statement

The Institute:

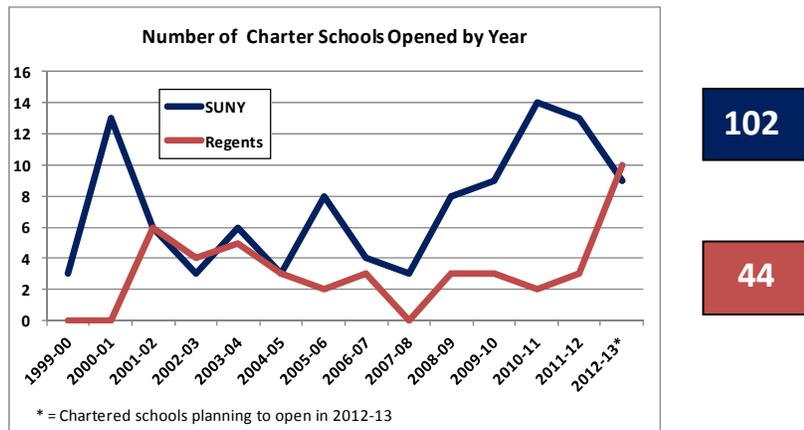
- recommends for charter approval only those schools that have a high likelihood of significantly improving student achievement, especially for students at risk of academic failure;
- provides ongoing oversight of schools that centers on schools’ progress in improving student achievement, while also reviewing their organizational and fiscal performance;
- provides oversight that serves as a catalyst for improvement, informs the public of each school’s performance, and protects the health and safety of students enrolled in each school;
- vigorously respects, defends, and advocates for each school’s independence and autonomy;
- recommends renewal of only those charter schools that have shown they can improve student performance and operate in a fiscally and organizationally sound manner; and
- strives to become a nationally recognized repository and disseminator of research, training and best practices for charter schools, public school choice and charter authorizing.

SUNY Quickly Emerges as a State Leader

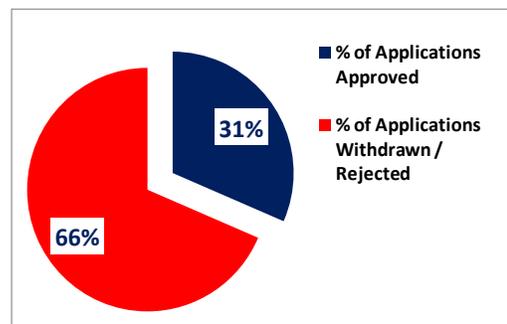
Research on states in which multiple [distinct from one or many] authorizing bodies exist tend to: 1) have more, higher quality charter schools and 2) can insulate charter school related decisions (both positive and negative in the case of closing underperforming schools) from external pressures. The reasons why vary, but studies have shown that in some instances, those given authority to authorize charter schools are not inclined to do so and/or do not have the capacity to undertake this significant responsibility.

Candidly, this was the case in New York. Despite a clear demand on the part of students and potential school operators (who had been working to see charter school legislation enacted for several years prior to its adoption) and despite the clear charge of the New York Charter Schools Act, SUNY was the only state authorizer that immediately worked to develop authorizing policies and practices.

In fact, the Board of Regents did not open its first charter until three years after passage of the original Charter Schools Act. By that time, SUNY had already established authorizing practices and policies that were gaining national recognition and had 23 schools open.



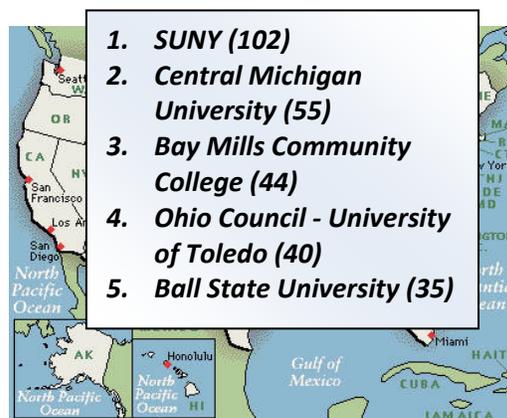
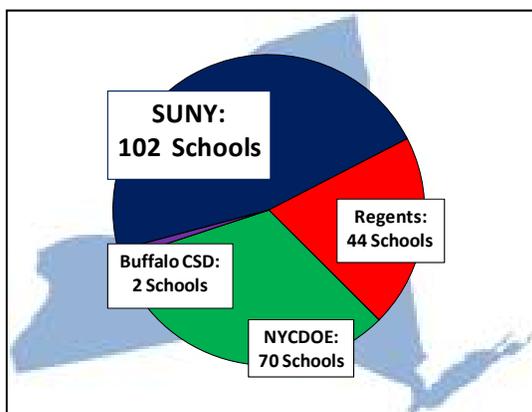
Importantly, while SUNY was paving the way for its fellow New York authorizers, and ultimately its national counterparts, it was doing so with rigor and a commitment to quality. It quickly became clear that it was not easy to obtain a charter from SUNY. SUNY has received 354 applications to establish new charter schools since it first began accepting applications in the fall of 2009. In all, SUNY has approved only 31% of applications received. This is reflective of the rigorous process established by SUNY as well as the enormity of the challenge associated with opening a brand new school where one previously did not exist.



Note that when an application is deemed insufficient to move forward to the next phase of the Institute's multi-layered approval process (after extensive academic, legal and fiscal review by Institute staff and a panel of external experts), the applicant is given two options: to withdraw the application, or, to have it moved forward to the SUNY Trustees'

with the Institute's recommendation that it be denied. The vast majority of applicants withdraw. The SUNY Trustees have not approved a new school application over the Institute's objection.

Today, SUNY stands as the largest charter school authorizer in New York State and the largest University-based authorizer in the country.



Institute Work in Practice

Institute staff are small in number with 15 professional staff at full capacity and three support staff. While the number of schools the Institute oversees has grown, the operating budget to staff the Institute has not. Today SUNY oversees schools that serve nearly 28,000 students across New York State, approximating the fourth largest school district in New York State, with less operating dollars today than it had years ago.

Notably, however, the individuals that comprise the Institute staff are uniquely dedicated to the high standards for which SUNY has become nationally known—they were drawn to the Institute not only by its outstanding national reputation, but by review of the vast body of work that SUNY has developed over the years that has been widely shared with authorizers across the country. The Institute's senior leadership team and academic program staff have countless years of experience as teachers and administrators in districts and charter schools and in the field of authorizing.

It is worth noting that Institute staff have served as a resource to the staff of the State Education Department and to the extent applicable, to the staff of the New York City Department of Education in adopting the May 2010 amendments to the Charter Schools Act. Institute staff are frequently called upon by authorizers from across the country for advice, counsel, and the sharing of best practices – from New Jersey to Pennsylvania to New Orleans, Chicago, Arizona and more.

The major functions of the Institute work, again, grounded in the policies and high expectations of the SUNY Trustees, are as follows:

- **Review of Proposals to Establish New Charter Schools:** The Institute has designed a rigorous application review process for new charter schools that includes: an extensive academic, fiscal and legal review by Institute staff as well as review by a panel of external experts in the fields of education and school finance; and two interviews of the founding team and proposed board, first with Institute staff and then, for those proposals moved forward in the process, by members of the SUNY Trustees' Education, College Readiness and Success Committee. This process has been refined over time to

reflect lessons learned and requires applicants to be thoughtful, detailed, to assure consistency and alignment in all aspects of the proposal, to demonstrate an appreciation for enormity of the undertaking as well as a clear understanding of SUNY's high expectations when it comes to accountability and charter renewal. Strong proposals provide a detailed blue-print upon which successful applicants can build their school.

- **Ongoing Oversight and Evaluation:** The Institute is responsible for maintaining a comprehensive program of oversight and evaluation of all approved SUNY charter schools. A central component of that program is the schedule of school inspection visits over the course of the charter period that result in detailed letters and reports to each school's board of trustees. Visit teams seek evidence of effectiveness measured against the Institute's rigorous Renewal Benchmarks (described below) by observing classrooms; interviewing teachers, the school's leadership team and members of the board of trustees; and conducting a comprehensive document review leading up to and during a visit. Evaluation reports focus on observations in the areas of: teaching and learning (curriculum, instruction assessment, and programs for students at-risk); leadership (instructional leadership, professional development, board oversight) climate (student order and discipline); and, fidelity to the school's charter, including its mission.
- **Academic Accountability Plans:** All SUNY authorized charter schools are required to adopt an Academic Accountability Plan which is incorporated into their charter agreement. The plans must include a series of SUNY specific goals and measures as determined by the Institute. For elementary and middle schools, those measures fall in the following areas: absolute proficiency, including that 75% of students enrolled in their second year must score at proficiency or above on state exams; comparative performance, including performing better than expected when compared to similar (like percentages of free-lunch eligible students) district public schools in the state, and outperforming the district in which they are located; growth measures, including that cohorts of students must increase the percentage of students testing at percentage of students testing at proficiency; and compliance with NCLB including that the school meets the state's annual performance goal. SUNY authorized high schools are also required to commit to absolute proficiency, comparative performance, cohort growth and NCLB measures related to performance on Regents exams and promotion from grade to grade. High schools also have required measures for graduation and, if the school has a college prep mission, it will also have required measures related to college preparation, acceptance and enrollment. The extent to which a school has met its Accountability Plan goals is a key factor in the Institute's renewal recommendation.
- **Charter Renewal:** While technically schools do not face renewal until the end of the charter term, the practices developed by the Institute are designed to ensure that all SUNY authorized charter schools are aware of what will be expected of them at renewal from the time the school first opens its doors to students. As noted above, all school evaluation visits are conducted through the lens of SUNY standards for charter renewal, specifically the State University Charter Renewal Benchmarks. The SUNY Renewal Benchmarks detail Institute expectations in the critical areas of academic success, organizational effectiveness, fiscal soundness, and achievable plans for the future. The extent to which a school has met these Benchmarks is another central factor in the

Institute's recommendation as to whether or not a school is granted the authority to continue operation. SUNY's comprehensive Renewal Policies outline the specific renewal options available to schools. These policies are posted on the Institute's website and have become a universally recognized hallmark of quality authorizing. The Institute has recommended, and the Trustees have not renewed, i.e., closed, nine charter schools to date for failing to meet the requirements of their academic Accountability Plans and/or the Act.

- **Legal and Fiscal Oversight:** All SUNY authorized charter schools are required to submit quarterly fiscal reports, annual budgets and audits conducted by an independent auditor which are monitored by Institute staff. Institute legal staff serve as a valuable resource to schools and take a solution-oriented approach to compliance challenges. If a problem is identified, Institute staff work with the school to ensure quick resolution wherever possible. At the same time, if a problem remains, the Institute has delineated clear policies for remediation plans and, when necessary, recommendations for formal probation.
- **Respect for Independence and Autonomy:** Under the Charter Schools Act, a SUNY charter school is accountable to its local board of trustees, its authorizer, and the Board of Regents. The district in which the school is located has the right to visit the school, review records, and report any concerns to the Authorizer. The school is responsible for the promises outlined in its charter agreements and must consistently demonstrate that it has earned the right to continue operating or else risk closure. At the same time, however, charter schools were created to be free of the administrative burdens facing district schools and in exchange for stark accountability, charter schools were to have certain independence and certain autonomies. The hard work of the SUNY Trustees is striking the right balance between holding schools accountable and respecting their autonomy. This is vitally important when it comes to enabling school leaders on the ground to be able to quickly make programmatic changes in response to student needs. As a result, the Institute has developed a model charter for SUNY authorized schools that provides a certain amount of flexibility for schools to make minor programmatic revisions on their own and/or in consultation with the Institute staff, as opposed to more significant programmatic changes which would require a public hearing and a request for and approval of a charter revision. The model charter also allows for some flexibility in the area of enrollment planning. More broadly, the Institute's commitment to defending a charter school's independence and autonomy is reflected in the wide variety of charter schools in SUNY's portfolio. The bar of expectations is high, but the Institute recognizes that there is more than one way to meet that bar and specifically accommodates and seeks out innovation and diversity among the schools it recommends for approval.

National and International Recognition of SUNY's Charter Authorizing Work:

The Institute has always approached its work from the vantage point of continuous quality improvement. Institute staff are consistently reviewing practices to assure rigor, quality, and effectiveness. For example, SUNY's policies for charter renewal were revised in 2005, in 2009, and are on scheduled to be revised again in 2012. SUNY's new school application is in its 8th iteration, the most recent improvements coinciding with the statutory requirement to transition to an RFP

format. SUNY's processes for school evaluation have also gone through several iterations. Institute staff is committed to learning from the successes and challenges faced by the schools it authorizes as well as from national peers and best practices in education, the not-for-profit sector and even the business community.

This focus on quality has led to frequent national, and more recently, international recognition of SUNY policy and Institute practice.

- In January 2012, SUNY led the nation by approving and implementing the nation's first policy on the replication of high quality charter schools. Launched by a waiting list for admissions to the schools it authorizes that now approaches 60,000, SUNY's policy-based approach to replication assures measured growth that does not sacrifice rigor or quality.
- In September 2011, SUNY's authorizing practices—application review, evaluation, and renewal—were featured in a new international database sponsored by the World Bank and CfBT on public/private partnerships in support of high quality education: http://www.cfbt.com/epsetoolkit/case_studies/case_studies_n-z/state_university_new_york.aspx
- In May 2011 and again in October 2011 SUNY was the recipient of grant support from the National Association of Charter School Authorizers' Fund for Authorizing Excellence to fund the development of policies and practices specific to the replication of high quality charter schools. "SUNY continues to raise the quality bar for charter school authorizers," said NACSA President and CEO Greg Richmond. "SUNY's approach to replication, focusing on academic rigor and policy-based practice, is consistent with NACSA's Principles and Standards and with SUNY's position as a model authorizer."
- In October of 2010, SUNY received the Award for Excellence in Improving Authorizer Practice from the National Association of Charter School Authorizers (NACSA). SUNY was recognized as having the "best application process" for creating new charter schools, particularly notable given it was the first year SUNY was required to transition to an RFP process.
- SUNY has been recognized numerous times by the United States Department of Education (USDOE) as a national exemplar for charter school authorizing.
 - Most recently, the USDOE's May 2010 report, entitled *Fostering Innovation and Excellence*, features SUNY's processes for application review, ongoing oversight and evaluation, and charter renewal and also notes SUNY's willingness to hold schools accountable and close underperforming schools.
 - In a June 2009 conference call hosted by Education Secretary Arne Duncan and his staff, SUNY was cited as a model authorizer by Dean Kern, then Director of the Department's Charter Schools Program, who stated "...examples of high quality authorizers that are taken seriously, closing down low-performing schools...would be your [New York's] state university system, SUNY. They have done an incredible job of holding their charter schools accountable and closing those that are not demonstrating results."

- SUNY was selected from over 800 charter authorizers nationally following a rigorous interview and evaluation process by the United States Department of Education in 2007 as an exemplar of high quality charter authorizing, noting specifically its application review process and rigorous charter renewal policies.
- The Accountability Report 2009: Charter Schools, prepared by the Center for Education Reform states, “New York’s charter school success is a product of high standards and accountability that is enforced.” SUNY is the only chartering entity in the state to have closed a charter school for academic underperformance. The report further notes, “Approximately 40 percent of the state’s charters are sponsored by the State University of New York (SUNY) Charter Schools Institute, and these schools consistently make gains in student achievement.”

Performance of SUNY Charter Schools

Accolades for SUNY’s practices would be meaningless without positive results in the classroom. SUNY authorized charter schools again outperformed their charter school peers on the 2010-11 English language arts and mathematics exams.

- *Mathematics*
 - 87% of SUNY authorized charter schools outperformed their district of location.
 - In New York City, where the largest percentage of SUNY charter schools are located, SUNY schools outperformed their charter peers: SUNY: 74%; Non-SUNY: 62%
 - SUNY authorized charter schools outperformed all non-SUNY charter schools statewide: SUNY: 70%; Non-SUNY: 60%
 - 7 of the top 10 charter schools with the highest percentages of students proficient in math were authorized by SUNY.
- *English Language Arts*
 - 85% of SUNY authorized charter schools outperformed their district of location.
 - In New York City, where the largest percentage of SUNY charter schools are located, SUNY schools outperformed their charter peers: SUNY: 53%; Non-SUNY: 41%
 - SUNY authorized charter schools outperformed all non-SUNY charter schools statewide: SUNY: 51%; Non-SUNY: 42%
 - 7 of the top 10 charter schools with the highest percentages of students proficient in English language arts statewide were authorized by SUNY
 - In the Institute’s regression analysis of each charter school compared to demographically similar schools (like percentages of free-lunch eligible students) state-wide, SUNY authorized charter schools consistently perform in the “better than expected” categories in both English language arts and math.

Joining SUNY's P-16 Education Pipeline Initiative

In 2011 the Institute was recognized as part of SUNY's P-16 Education Pipeline Initiative. Now reporting to Senior Vice Chancellor Johanna Duncan-Poitier, the work of the Institute has become another strong strategy for helping to achieve one of the critical goals of the University's Power of SUNY Strategic Plan: "to lead every student, no matter how vulnerable, through the education system and into a career in the 21st century workforce." The majority of the 102 charter schools authorized by SUNY to date utilize a student-centered, college-preparatory model designed to bring at-risk students to high levels of academic and personal achievement, and many actively engage community-based organizations and leaders to support their work.

Consistent with this transition, the SUNY Trustees established a new Education, College Readiness and Success Committee which now oversees the work of the full Board in all facets of the P-16 pipeline, including charter schools.

SUNY College Students in the Charter School Classroom

The Institute is continuing to explore ways in which it can contribute to SUNY's broader strategic goals and introduce the vast resources of the SUNY colleges and universities to SUNY charter schools.

- The New York City based SUNY Urban Teacher Education Center (SUTEC) was created to support SUNY's 17 colleges and universities with teacher preparation programs secure positive student teaching experiences for their students in an urban setting. While the historic focus of the program had been on placing student teachers in district schools, a pilot effort launched last year by SUTEC to bring SUNY college students into SUNY authorized charter schools is expanding.

Five SUNY authorized charter schools are currently hosting SUNY student teachers from SUNY Fredonia, SUNY New Paltz and SUNY Oneonta. Eight additional charter schools have expressed interest in hosting SUNY student teachers and another fourteen are interested in hiring SUTEC alumni.

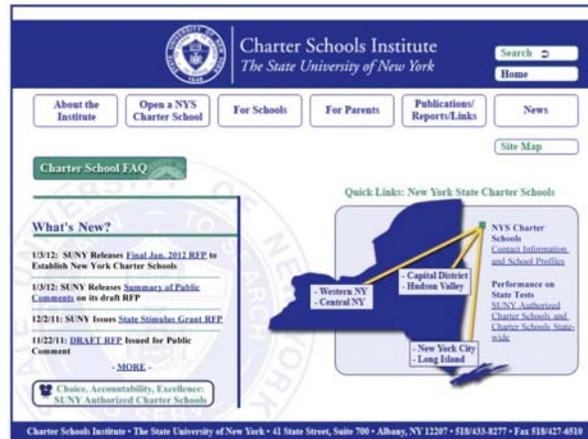
- Seeking to implement a research agenda, the Institute has begun with an initial study of a SUNY Trustee pilot of restructuring renewal, an alternative approach to traditional school closure that brings a new education program to students in the same physical location as the closed school. Institute staff are working with a graduate student from the University of Albany on the project and see this and other partnerships with SUNY faculty as a significant opportunity.
- Notably, a number of high school graduates from SUNY authorized charter high schools have already followed the P-16 pipeline by enrolling in SUNY Colleges and Universities: SUNY Albany, SUNY Binghamton, SUNY Buffalo, Buffalo State College, SUNY Geneseo, Erie County Community College, SUNY Oswego, SUNY New Paltz, SUNY Old Westbury and more. There is no question that the nearly 30,000 students in SUNY authorized charter schools today can be the future students of SUNY colleges and universities tomorrow.



When she was a student at SUNY Oneonta, Ashley Lorenzo completed a student teaching placement at the Bronx Charter School for Excellence. She made such a positive impression that the school hired her upon graduation. Ms. Lorenzo is shown above engaging her third grade students.

A Commitment to Transparency

The website of the Charter Schools Institute, www.newyorkcharters.org, receives over 20,000 unique visitors each month. The website reflects SUNY's commitment to transparency and features in-depth information about SUNY's authorizing policies, practices, the schools it authorizes, and the New York charter sector. The website has become a valued resource for parents, students, charter schools, charter school authorizers, community organizations, elected officials and more.



For more information on any of the items contained in this document, please contact the Institute at charters@suny.edu or visit the Institute today at: www.newyorkcharters.org.