



**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:** May 30, 2024

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

### 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 Excellence 2** (Three-year renewal term from 2026 to 2029);
- **Bronx Preparatory Charter School** (Four-year renewal term from 2025 to 2029);
- **Democracy Preparatory Charter School** (Four-year renewal term from 2025 to 2029); and
- **Harlem Prep Charter School** (Three-year renewal term from 2026 to 2029)?

#### 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 2024 meeting.

#### Procedural History

On **January 30, 2024**, the Trustees of the State University of New York ("the Trustees" or "SUNY") approved the renewal charters for **Bronx Preparatory Charter School, Democracy Preparatory Charter School, and Harlem Prep Charter School,**

which are being presented to the Board of Regents for approval and issuance pursuant to Article 56 of the Education Law. On **March 27, 2024**, SUNY approved the renewal charter for **Bronx Charter School for Excellence 2**, also 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 charters for **Bronx Preparatory Charter School, Democracy Preparatory Charter School, and Harlem Prep Charter School** were sent to the Department on **April 10, 2024**, and the proposed renewal charter for **Bronx Charter School for Excellence 2** was sent to the Department on **April 24, 2024**.
- Once a proposed charter is received by the Department, the Board of Regents has two options:
  1. Take no action on the proposed charter, which results in the charter renewal going into effect by operation of law 90 days after the initial submission to the Department, in this case on **July 9, 2024**, for **Bronx Preparatory Charter School, Democracy Preparatory Charter School, and Harlem Prep Charter School**, and on **July 23, 2024**, for **Bronx Charter School for Excellence 2**.
  2. Consider the proposed charter and vote on it 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 charter back to SUNY with comments, SUNY must reconsider the recommendation and can choose to resubmit the proposed charter to the Board of Regents with modifications, provided that the applicant consents in writing to such modifications; resubmit the proposed charter to the Board of Regents without modifications; or abandon the proposed charter. If the proposed charter is resubmitted to the Board of Regents, for SUNY-authorized charter schools only, the Board of Regents must approve and issue the proposed charter within 30 days of resubmission. If the Board of Regents

does not do so, the charter shall be deemed approved and issued at the expiration of such period.

**The Department recommends that the Board of Regents return 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...”<sup>1</sup> 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 **January 30, 2024**, to renew **Bronx Preparatory Charter School, Democracy Preparatory Charter School, and Harlem Prep Charter School** and they voted on **March 27, 2024**, to renew **Bronx Charter School for Excellence 2**. As noted above, the schools’ current charter term will not expire until **2025** for **Bronx Preparatory Charter School** and **Democracy Preparatory Charter School** and not until **2026** for **Bronx Charter School for Excellence 2** and **Harlem Prep Charter School**. The new charter terms for all four schools will not end until **2029**. 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 requires<sup>2</sup> 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 how 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 law intends to maintain quality charter authorizing practices by ensuring that renewal decisions are based on timely 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.<sup>3</sup>

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<sup>1</sup> 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...”

<sup>2</sup> Education Law §§2851(2) and 2852(2).

<sup>3</sup> 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.

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 below.

### **Related Regents Items**

April 2017: [Charter Schools: Renewals to Charters Authorized by the Trustees of the State University of New York](https://www.regents.nysed.gov/sites/regents/files/417p12a5.pdf)  
(<https://www.regents.nysed.gov/sites/regents/files/417p12a5.pdf>)

July 2017: [Charter Schools: Renewals to Charters Authorized by the Trustees of the State University of New York](https://www.regents.nysed.gov/sites/regents/files/717p12a1.pdf)  
(<https://www.regents.nysed.gov/sites/regents/files/717p12a1.pdf>)

June 2019: [Charter Schools: Renewals to Charters Authorized by the Trustees of the State University of New York](https://www.regents.nysed.gov/sites/regents/files/619p12a1.pdf)  
(<https://www.regents.nysed.gov/sites/regents/files/619p12a1.pdf>)

January 2020: [Charter Schools: Renewals to Charters Authorized by the Trustees of the State University of New York](http://www.regents.nysed.gov/sites/regents/files/120p12a2.pdf)  
(<http://www.regents.nysed.gov/sites/regents/files/120p12a2.pdf>)

March 2020: [Charter Schools: Renewals to Charters Authorized by the Trustees of the State University of New York](https://www.regents.nysed.gov/sites/regents/files/320p12a2.pdf)  
(<https://www.regents.nysed.gov/sites/regents/files/320p12a2.pdf>)

April 2021: [Charter Schools: Renewals to Charters Authorized by the Trustees of the State University of New York](https://www.regents.nysed.gov/sites/regents/files/421p12a5.pdf)  
(<https://www.regents.nysed.gov/sites/regents/files/421p12a5.pdf>)

June 2022: [Early Renewal Recommendations for Charter Schools Authorized by the State University of New York Trustees](https://www.regents.nysed.gov/sites/regents/files/622p12a7.pdf)  
(<https://www.regents.nysed.gov/sites/regents/files/622p12a7.pdf>)

June 2023: [Renewal Recommendations for Charter Schools Authorized by the Trustees of the State University of New York](https://www.regents.nysed.gov/sites/regents/files/623p12a4revised.pdf)  
(<https://www.regents.nysed.gov/sites/regents/files/623p12a4revised.pdf>)

May 2024: [Renewal Recommendation for a Charter School Authorized by the Trustees of the State University of New York](https://www.regents.nysed.gov/sites/regents/files/524p12a2.pdf)  
(<https://www.regents.nysed.gov/sites/regents/files/524p12a2.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 Preparatory Charter School, Democracy Preparatory Charter School, Harlem Prep Charter School, and Bronx Charter School for Excellence 2** 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 term. 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 seven 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.