



Charter Schools Institute
The State University of New York

Renewal Report:

Buffalo United Charter School

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EXECUTIVE SUMMARY

The Buffalo United Charter School (BUCS) was originally approved by the Board of Trustees of the State University of New York under the name of Libertas Charter School¹ in June of 2002, and a charter was issued by the Board of Regents in September of the same year. The school used 2002-03 as a planning year, and officially opened in the Fall of 2003. Throughout the charter term, BUCS has contracted management services through the National Heritage Academies, Inc. (NHA).

The school's charter will expire on September 13, 2007, unless it is extended by the Board of Trustees. BUCS has applied for a one year short-term planning year renewal pursuant to the *State University Renewal Practices*,² which, if approved without any conditions, would result in the renewal of the school's charter through and including July 31, 2008.³ The one year renewal would also allow the school to operate pursuant to the terms of its original charter with the following exception: the school would add an eighth grade, which was contemplated by its initial charter application but not included in the final charter due to the school's desire to use the first year of the charter term as a planning year.

The Charter Schools Institute reviewed the short-term planning year renewal application for BUCS and found that the school, as described in the renewal application, will meet all the requirements of the New York Charter Schools Act of 1998 as amended⁴ and other applicable laws, has the ability to operate the school in an educationally and fiscally sound manner, and that granting the renewal application is likely to improve student learning and achievement and materially further the purposes of the Charter Schools Act as set forth in subdivision 2850(2) of the New York Education Law. As a result, the Charter Schools Institute recommends that the Board of Trustees grant a short-term planning year renewal for the Buffalo United Charter School through and including July 31, 2008, with instruction in grades Kindergarten through eight and enrollment of 700 students.

INTRODUCTION

The Charter Schools Act authorizes the Board of Trustees to grant charters to applicants for the purpose of organizing and operating independent and autonomous public charter schools. The purpose of the Charter Schools Act is to authorize a system of charter schools in order to provide opportunities for teachers, parents, and community members to establish and maintain schools that operate independently of existing schools and school districts in order to accomplish the following objectives:

- 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;

¹ Libertas Charter School was granted a name change in March 2003 to Buffalo United Charter School.

² The latest version of the *Practices, Policies and Procedures for the Renewal of Charter Schools Authorized by the State University Board of Trustees (State University Renewal Practices)* was revised on December 13, 2005 and is available at <http://www.newyorkcharters.org/forms/schools/renewPoliciesProcedures.doc>.

³ The Charter Schools Institute recommends extending the time slightly beyond one year so that the charter will expire after the end of the school year as opposed to during the school year.

⁴ New York Education Law § 2850 *et seq.*

- Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system;
- Create new professional opportunities for teachers, school administrators and other school personnel;
- Encourage the use of different and innovative teaching methods; and
- Provide schools with a method to change from rule-based to performance based accountability systems by holding the schools accountable for meeting measurable student achievement results.⁵

When initially granted, a charter is valid for up to five years. For a school chartered under the Charter Schools Act to operate beyond the initial charter term, the school must seek and obtain renewal of its charter.⁶

In order to assist the Board of Trustees in carrying out its responsibilities under the Charter Schools Act, the Board of Trustees authorized the establishment of the Charter Schools Institute of the State University of New York (the “Institute”). Among its duties, the Institute is charged with evaluating applications for renewal, including applications for short-term planning year renewal, and providing its findings and recommendations to the Board of Trustees.

This report is the primary vehicle by which the Institute transmits to the Board of Trustees its findings and recommendation regarding an application for renewal. The report’s purpose is to assist the Board of Trustees in evaluating the merits of a school’s renewal application and more broadly the merits of a school’s case for renewal. The report has been created and is issued pursuant to the *State University Renewal Practices*, and the guidance provided in the *Application for Short-Term Planning Year Renewal* (available at: <http://www.newyorkcharters.org/schoolsRenewApp.htm> or from the offices of the Institute) promulgated pursuant to the *State University Renewal Practices* in June 2006.

Statutory and Regulatory Considerations

The Charter Schools Act requires that a school’s application for a charter renewal of up to five years include:

- A report of the progress of the charter school in achieving the educational objectives set forth in its charter;
- A detailed financial statement that discloses the cost of administration, instruction and other spending categories for the charter school that will allow a comparison of such costs to other schools, both public and private;
- Copies of each of the annual reports of the charter school including the charter school report cards and certified financial statements; and
- Indications of parent and student satisfaction.⁷

⁵ See Education Law § 2850(2).

⁶ See Education Law §§ 2851(4) and 2852.

⁷ Education Law § 2851(4).

The Institute's processes and procedures for short-term planning year renewal mirror these requirements and meet the objectives of the Charter Schools Act.

As a charter authorizing entity, the Board of Trustees can renew a charter so long as the Trustees can make each of the following findings:

- The charter school described in the application meets the requirements of the Charter Schools Act and all other applicable laws, rules and regulations;
- The applicant can demonstrate the ability to operate the school in an educationally and fiscally sound manner; and
- Granting the application is likely to improve student learning and achievement and materially further the purposes of the Charter Schools Act.⁸

When the Board of Trustees approves an application for renewal, they are required under the Charter Schools Act to submit the application and a proposed charter to the Board of Regents for its review.⁹ The Board of Regents may approve or comment on and return the proposed charter, ultimately leading to final approval of the renewal charter either by vote of the Regents or by operation of law.¹⁰

Short-Term Planning Year Renewal Process

This report contains the findings and recommendations of the Institute regarding a school's application for charter renewal, specifically, a short-term planning year renewal.

Because the charter period begins upon final approval of the proposed charter (as opposed to upon the commencement of the school's operation), charter schools that have taken one or more planning years come to renewal with, at most, three years of data regarding school and student performance. The limited time of operation (and the concomitant reduced amount of student assessment outcomes) makes it extremely difficult for the Institute to determine any trends in student performance as well as make a well-reasoned determination as to whether the school should be renewed for a full-term of five years. To address this issue, the Board of Trustees approved the use of the "short-term planning year" renewal option. This option is available to schools that have taken one or more planning years. These schools are able, with limited though legally and programmatically sufficient review, to obtain renewal for a period equal to the number of planning years taken. In turn, therefore, a school will not be required to seek renewal for a full-term of five years until it has been in operation for at least four full years.

The Institute's protocol for short-term planning year renewal is based on the same fundamental questions all schools must address in applying for renewal of their charters:

- Is the school an academic success?
- Is the school a viable and effective organization?
- Is the school fiscally sound?

⁸ See Education Law § 2852(2).

⁹ See Education Law § 2852(5).

¹⁰ See Education Law §§ 2852(5-a) and (5-b).

- What are the school's plans for the next charter period and are they reasonable, feasible and achievable?¹¹

The Institute also makes the same legal findings as it does for any renewal application submitted to it. However, in the case of a short-term planning year renewal, where the renewal period is for a limited period, the Institute employs a somewhat abbreviated process to determine its recommendation and make the necessary findings. Moreover, because schools should not be penalized for taking a planning year (or two if necessary), the Institute encourages schools to apply for short-term planning year renewal in the first year of the school's operation.

In addition to the application itself, the Institute reviews the following sources of evidence in making a determination on an application for short-term planning year renewal.

1. Academic Success: the Institute will review the school's most recent Accountability Plan Progress Report (due each year that the school has been in operation on August 1st), and, as needed and available, any prior Accountability Plan Progress Reports that the school has filed. Where schools file for short-term planning year renewal early in the initial renewal period, the information that is available is likely to be limited.
2. Effective, Viable Organization: the Institute will conduct a desk audit of the school's visit and inspection reports, if any have been promulgated. This will include visits conducted by the Institute or other entities, such as the State Education Department (SED) or other external reviewers. In addition, the Institute will review records regarding the school's compliance with existing laws, regulations and policies to determine whether the school has been in substantial compliance. The Institute will review other information as it deems necessary, including copies of board minutes.
3. Fiscal Soundness: the Institute will refer to the most current desk audit of the school by the Institute's Vice President for School Fiscal Accountability. The Institute will review other related materials and documents as it deems necessary.
4. Future Plans: the Institute will look primarily at the school's plans as set forth in the renewal application. The Institute will take cognizance of other data in its possession to determine the proposed plans' reasonableness, especially where the school proposes a new program, a different management structure, additional grades or other significant changes.

Finally, the Institute reserves the right to make an on-site renewal visit where necessary, although doing so would be the exception and not the rule with regard to short-term planning year renewal applications.

The Institute then prepares a draft report, which is reviewed by key staff members. The report is then finalized, and copies are provided to the members of the Committee on Charter Schools, and the other members of the Board of Trustees. This report is the product of that process and meets the requirements of the pertinent provisions of the Charter Schools Act in all respects.

¹¹ Application for Short-Term Planning Year Renewal (For Schools Currently in Operation) at 9.

SCHOOL DESCRIPTION

The Buffalo United Charter School opened in the Fall of 2003 serving 237 students in Kindergarten through fourth grades. As of the current school year, the school enrolls 490 students in Kindergarten through seventh grades. BUCS provides a core curriculum which focuses its instruction in the areas of English language arts (ELA), mathematics, science, and social studies using Core Knowledge, Saxon Math, and Open Court reading. In addition to the core subjects, the school's academic program includes music, art and physical education. Character education is provided through the school's management company, National Heritage Academies, Inc.

The mission statement of BUCS since its inception has been as follows: "Buffalo United Charter School will offer families and students a public charter school which focuses on high academic achievement and instills a sense of family, community and leadership within all our students."

The school is located at 325 Manhattan Avenue in Buffalo in a facility leased from a subsidiary of NHA. A facility addition was completed in 2006 in order to accommodate the planned expansion of the school through eighth grade in the 2007-08 school year. The school facility includes a school library, gymnasium, technology center and parent-room, in addition to ample classroom space and administrative offices.

SUMMARY DISCUSSION

Academic Success

BUCS has demonstrated mixed results in both ELA and mathematics. The school showed marked improvement from the first year to the second year of operation, coming close to meeting its Accountability Plan ELA and mathematics goals in 2004-05. However, in 2005-06, performance declined and the school did not meet its goals in either ELA or math. BUCS has met or come close to meeting its Accountability Plan goals in science and social studies. However, the data for science and social studies are generally limited and 2005-06 data are unavailable in these two content areas.

English Language Arts

In absolute terms, BUCS' ELA performance improved from 41% of fourth grade students scoring at proficiency in 2003-04 to 66% the next year. In 2005-06, performance declined with 41% of students in grades 3-6 being proficient. The school consistently met the annual aggregate objective under the state's No Child Left Behind Act (NCLB) accountability system; however, in 2005-06 its performance index was considerably lower than the previous year, only just meeting the target. In all three years the school outperformed its district. In comparison to schools statewide, in 2004-05 the school performed better than similar public schools; in 2005-06 it performed lower than comparison schools. In terms of its value added measure, none of the four grade level cohorts achieved their targets on the Northwest Evaluation Association (NWEA) Measures of Academic Progress (MAP) reading battery in either of the last two years for which results are available. Moreover, overall performance declined in both years.

Mathematics

The school demonstrated strong performance in mathematics in its first two years of operation. In both years it met its absolute measures with approximately 75% of fourth grade students scoring

proficient on the state exam. In 2005-06, however, 54% of students in grades 3-6 were proficient. During all three years the school has outperformed the local school district and met the criterion for aggregate mathematics performance under the state's NCLB accountability system. In comparison to similar public schools statewide, BUCS performed lower than expected in 2004-05, the first year data of this kind were available, and performed about the same as expected in 2005-06. On the NWEA mathematics test, one out of four grade level cohorts met its target in 2004-05; the same proportion of cohorts met their target in 2005-06. Overall the school did not achieve its target in either year.

Science

In science, BUCS both met its absolute target and outperformed its district and comparison schools on the fourth grade science exam during the first two years of the charter. Results are not available for 2005-06.

Social Studies

In 2004-05 the school came close to meeting its absolute measure on the fifth grade social studies exam. Comparison and 2005-06 social studies data are unavailable.

The school is deemed to be in Good Standing under the state's NCLB Accountability system.

As part of its analysis, the Institute reviewed the conclusions drawn by the external school evaluation team engaged by the Institute to conduct the school's third-year end-of-year school inspection visit. This visit was conducted as part of the Institute's regular, ongoing school oversight and evaluation protocol.

Within the Third-Year Inspection Report for the Buffalo United Charter School, dated July 17, 2006, the school inspection team noted that: BUCS has begun to provide alternative instruction to suspended students, has a curriculum that reflects high academic standards at each grade level, provides satisfactory or better instruction in most classrooms, and enjoys a high level of parent/guardian satisfaction. However, the inspection team also identified areas for school improvement. These included a need to provide professional development to teachers in the delivery of differentiated instruction; to implement a school-wide writing program; to complete criminal background checks on all employees as specified in the Charter Schools Act; and finally, to stabilize the school's leadership. Furthermore, the report noted that the school had not yet fully integrated the parent advisory/governance model envisioned in its charter.

According to the school's application for short-term planning year renewal, the school has begun to take steps to address the concerns raised within the report. For example, starting in the 2006-2007 academic year, the school has taken steps to improve data-driven instruction at the school, including the creation of a Data Specialist position and by securing training on the extraction of student level item analysis detail on the state assessment data. The school has also complemented its existing curriculum by incorporating additional tools and resources, such as the Lucy Calkins Units of Study-Writing Process program, the Corrective Reading Program, and Study Island, a computer-based tutorial program in reading and mathematics. The school has also added paraprofessionals to provide targeted instruction to students who did not score at Level 3 or above on the state's English language arts assessment. In addition, BUCS has also contracted with a school improvement and teacher development consultant to provide professional development to teachers at the school.

Organizational Effectiveness and Viability

BUCS has been sufficiently governed since its inception, and has demonstrated through its structure and actions the seriousness with which it accepts the responsibilities inherent in governing a school. According to its application for short-term planning year renewal, over half (four of five) of the school's board of trustees served the school during its first three years of instruction; since 2004-2005, the school has experienced little turnover among its trustees. The school continues to engage NHA as its management partner, and NHA provides monthly Performance Reports in three areas (Academic Excellence, Student Information, and Parental Partnership) to the board. The Third-Year Inspection Report on the school noted that these reports were not directly aligned with the school's Accountability Plan, and presented incorrect information on at least one occasion. Although the school's application included a draft management contract with NHA, the school did not enter in a final management contract with NHA until June of 2003, which remains in effect until such time as it is terminated (without cause by either party on 90 days notice) or the school's charter expires.

BUCS met its goal of at least 90% of parents indicating overall satisfaction in 2003-04 and 2004-05, and came close to meeting this goal in 2005-06; however, it has not met its goal of having 75% of parents respond to its annual survey during the 2004-2005 and 2005-2006 school years, due to a change in survey method. In the 2004-2005 and 2005-2006 school years, 29% and 50%, respectively, of parents responded to the telephone survey.

The school met its enrollment goals in both the 2003-2004 and 2004-2005 school years, but has not been able to do so in the 2005-2006 and 2006-2007 school years. As a result, the school has also failed to meet its goal of maintaining a waiting list reflective of at least 15% of the total average enrollment during those same years. In response, BUCS has hired an Admissions Specialist to improve demand for and enrollment at the school.

Finally, the school believes that student persistence rates reflect the level of parent satisfaction, and has therefore tracked the numbers/percent of students returning to the school each year. The enrollment rate was 75% in the Fall of 2004, 67% in the Fall of 2005, and 74% in the Fall of 2006.

Compliance with Applicable Law

Based on a limited compliance review consisting of a review of the Institute's files, including SED correspondence regarding BUCS, the school appeared to be in general and substantial compliance with applicable laws, rules and regulations at the time of renewal and during the term of its charter with the exceptions noted below.

As noted in other Institute reports (described above), BUCS had difficulty in complying with the employee fingerprinting requirements in the Charter Schools Act. In September 2005, the Commissioner of Education placed the school on probation through March 28, 2006 for not having properly conducted background checks on 24 employees, and for not providing alternative instruction to suspended students. Just prior to the end of that probation period, the Institute investigated an allegation that the school had hired a principal without conducting a proper background check. The evidence from this investigation was forwarded to SED, resulting in a continuance of the school's probationary status through December 31, 2006. The school implemented the probationary order's remedial action plan designed by the Institute which *inter alia* addressed related policy issues at the school. The remedial action plan was properly implemented by

the school and it was removed from probationary status by SED at the end of the probationary period.

In October of 2004, the Institute notified the school that after a review of board minutes, the school had made changes to its board of trustees that were not in conformance with its charter agreement, and had not notified the Institute of school trustee departures. These violations were remedied within a reasonable period of time. In November of 2004, SED notified the school that it had not submitted certain enrollment information to SED within the time frame required. BUCS did not generate any complaints that had to be reviewed by the Institute pursuant to the Charter Schools Act.

Fiscal Soundness

The school board has provided basic oversight, and the school, as it pertains to short-term planning year renewal, is fiscally sound. The school relies heavily on NHA to develop its annual budget and to provide the monitoring tools to oversee actual results. NHA prepares quarterly financials for review by the board that include budget to actual expenditure comparisons. Budgets have been amended as needed to ensure that school priorities are adequately funded.

NHA is contractually obligated to fund any financial deficits incurred by the school. In the school's first operating year NHA was required to cover a budgetary deficit of approximately \$558,000. Subsequently, the school has not experienced budgetary deficits and does not project a deficit requiring NHA contributions in the current or next year. NHA has the financial resources to fund any reasonable deficits should they occur.

The school has met all of its financial reporting requirements. The annual budgets, quarterly financial reports and annual audit reports were filed on time. The audit report opinion in each of the school's first three operating years was unqualified, indicating the financial statements were fairly presented, in all material respects, in accordance with generally accepted accounting principles. The audits were conducted in accordance with generally accepted auditing standards and Government Auditing Standards as required.

The school's annual audit reports on internal controls over financial reporting and compliance with laws, regulations and grants did not disclose any reportable conditions, material weaknesses, or instances of non-compliance. The lack of deficiencies in these independent reports provides some, but certainly not absolute, assurance that the school has maintained adequate internal controls and procedures. The purposes of the reports are not to provide assurance on internal controls over financial reporting or an opinion on compliance.

The school completed its third operating year in stable financial position. The school's net assets increased slightly to \$45,496. The school's financial condition is primarily dependent on the financial viability of NHA and a continuance of that relationship. Under the terms of its agreement with the school, NHA receives—as remuneration for its services—an amount equal to the total revenue received by the school from all revenue sources. NHA provides a spending account to the school's board for discretionary expenditures on an annual basis. Further, NHA provides administration, strategic planning, and all labor, materials, equipment and supervision necessary for the provision of educational services to students. NHA also provides the facility in which the school resides and leases it to the school. NHA, founded in 1995, is a private for-profit operator of charter schools that operates 53 schools in five states with more than 32,000 students, including two charter schools authorized by the Board of Trustees in New York State. Based on interviews with NHA staff

and review of documentation from the company, Institute staff did not identify any red flags concerning the financial health of NHA that would negatively impact the operation of the school in the current or next school year.

Facility Plans

BUCS plans to continue to operate from the school's current location of 325 Manhattan Avenue in Buffalo. The Institute previously received and reviewed the lease for said property and found it to be satisfactory. In addition, the facility provides adequate space to allow the school to accommodate the addition of an eighth grade.

Future Plans

Should the school be awarded a short-term planning year renewal, it seeks to expand instruction through the eighth grade. This request is consistent with the school's initial charter application to the extent that the school's founding group submitted all of its eighth grade curriculum and other materials therein. However, as part of the request for amendment process before the finalization of the charter, the school incorporated its planning year into the application and changed its total grades served from Kindergarten through eighth grade to Kindergarten through seventh grade. During the short-term planning year renewal term the school would provide instruction in eighth grade for the first time.

In response to the Institute's most recent school inspection report, and subsequent meetings held with the school board, the school has shifted to a standards-based focus. As a result, the school submitted a refinement of its curriculum crosswalk to reflect these changes. The school's curriculum document clearly crosswalks the core academic program or curriculum areas with the state's performance standards, as well as provides an overview of additional subject areas included in the school's academic program.

Also in response to feedback received through the Third-Year Inspection Report, the school is making modifications to its educational program, including the addition of the Scott Foresman social studies program as a resource to be used in conjunction with its existing curricular program, the Lucy Calkins Units of Study Writing Process program, and the addition of Spanish instruction at the seventh grade level. Consequently, the school has made appropriate adjustments to its staffing plan and school budget to reflect these changes.

According to the school's application for short-term planning year renewal, BUCS would enroll a new Kindergarten class of 100 students, fill seats emptied through attrition, and add an eighth grade to accommodate its current seventh grade students. The total projected enrollment would be 700 students for the 2007-08 school year, which represents an overall increase of 145 students when compared with the school's total approved enrollment for the current school year. The school board would continue to contract the management of BUCS to National Heritage Academies. The school does not propose any modifications to its school policies or the length of its school day or calendar year.

The school has not significantly amended its management structure or staffing plan, with the exception of the addition of paraprofessionals and teaching staff consistent with the addition of the eighth grade.

The school's Accountability Plan would be amended under the guidance of Institute staff, primarily to reflect the addition of an eighth grade, as well as other updates required by the Institute.

FINDINGS AND RECOMMENDATION

As described above, and based on the limited evidence before it, the Charter Schools Institute finds the Buffalo United Charter School has submitted an application for a short-term planning year renewal that meets the requirements of Education Law subdivision 2851(4). The Institute further finds that BUCS meets the requirements of the Charter Schools Act and all applicable laws, rules and regulations, and would be operated in an educationally and fiscally sound manner during the renewal period. The Institute further finds that granting a one year charter renewal for instruction in Kindergarten through eighth grades with a maximum projected enrollment of 700 students would likely improve student learning and achievement and materially further the purposes of the Act as set forth at subdivision 2850(2) of the Education Law. In addition, granting a one year renewal will assist in building sufficient data to be analyzed as part of the Institute's full renewal review. Based on these findings, the original charter as modified by the information in the renewal application to be included in the proposed renewal charter, and the evidence before it, the Institute recommends that the Board of Trustees renew the charter through and including July 31, 2008 pursuant to the short-term planning year renewal structure contained in the State University Renewal Practices.