



Charter Schools Institute
The State University of New York

REPORT TO THE BOARD OF TRUSTEES

**SUMMARY OF FINDINGS AND
RECOMMENDATIONS**

**RENEWAL OF THE CHARTER OF
BROOKLYN EXCELSIOR CHARTER SCHOOL**

JANUARY 5, 2007

EXECUTIVE SUMMARY

The Brooklyn Excelsior Charter School (Brooklyn Excelsior) was approved by the Board of Trustees of the State University of New York, and a charter was issued by the Board of Regents, in March of 2002. The school used 2002-03 as a planning year, and officially opened in the Fall of 2003. The school's charter will expire on March 19, 2007 unless the Board of Trustees extends its charter. Brooklyn Excelsior has applied for a one year "short-term planning year renewal" pursuant to the *State University Renewal Practices*,¹ which, if approved without any conditions, would result in the renewal of the school's charter through and including July 31, 2008² and allow it to operate pursuant to the terms of its original charter with the following exception: the school would add an eighth grade as contemplated by its original charter.

The Charter Schools Institute reviewed the short-term planning year renewal application for Brooklyn Excelsior 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 amended)³ as amended, can 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.

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;
- 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

¹ 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>.

² The 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.

³ Education Law § 2850 *et seq.*

- 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.⁴

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.⁵

In order to assist the Board of Trustees in 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 renewal applications, 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 a renewal application. 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. This 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 online at: <http://www.newyorkcharters.org/documents/STPYROperatingRenewalApplication.doc> 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.⁶

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:

⁴ See Education Law § 2850(2).

⁵ See Education Law §§ 2851(4) and 2852.

⁶ Education Law § 2851(4).

- 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.⁷

When the Board of Trustees approves a renewal application, they are required under the Charter Schools Act to submit the application and a proposed charter to the Board of Regents for its review.⁸ The Board of Regents may approve or return and comment on the proposed charter, ultimately leading to final approval of the renewal charter either by vote of the Regents or by operation of law.⁹

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 a "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?
- What are the school's plans for the next charter period and are they reasonable, feasible and achievable?¹⁰

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

⁷ See Education Law § 2852(2).

⁸ See Education Law § 2852(5).

⁹ See Education Law §§ 2852(5-a) and (5-b).

¹⁰ Application for Short-Term Planning Year Renewal (For Schools Currently in Operation) at p. 9.

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. The Institute will also review and take into consideration any formal and informal inspections and/or other visits to the school during the course of the charter. 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 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 it will 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.

SCHOOL DESCRIPTION

The Brooklyn Excelsior Charter School opened in the Fall of 2003 serving 240 students in Kindergarten through fifth grades. As of the current school year, the school enrolls 650 students in Kindergarten through seventh grades. Brooklyn Excelsior provides a core curriculum which focuses its instruction in the areas of English language arts, mathematics and science using Core Knowledge, Saxon Math, 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 (NHA), Inc.

Brooklyn Excelsior's mission statement since its inception has been as follows: "Working in partnership with parents and community, Brooklyn Excelsior Charter School will offer a challenging character-based education by providing a strong curriculum and an atmosphere of high expectations."

In the fall of 2004, Brooklyn Excelsior Charter School moved into its current location at 856 Quincy Street in Brooklyn.

SUMMARY DISCUSSION

Academic Success

Brooklyn Excelsior Charter School has demonstrated growth in both ELA and math over its first three years of operation. After being far from meeting the criterion for most of the ELA and math Accountability Plan outcome measures in the first two years, Brooklyn Excelsior came close in 2005-06 to meeting its goals in both subjects.

In terms of the school's absolute performance on the state assessment in ELA, Brooklyn Excelsior students demonstrated a low level of proficiency on the state's fourth grade assessment in the first two years of the charter period with 28 percent scoring proficient in 2003-04 and 31 percent proficient in 2004-05. However, performance improved in 2005-06 with 60 percent of students in grades 3-6 scoring at the proficient level on the state assessment. During the school's first two years, students did not meet the criterion for aggregate ELA performance under the state's NCLB accountability system; however, students did achieve the criterion in 2005-06.

In terms of comparative measures, the Brooklyn Excelsior Accountability Plan calls for the school to exceed the performance of five similar schools as well as New York City's Region 8 on the ELA assessment. According to the school's 2005-06 Accountability Plan Progress Report, in the first two years of the charter period Brooklyn Excelsior underperformed all five comparison schools as well as the region. In 2005-06 the school outperformed Region 8 and three of the five comparison schools.

In 2005-06, on its value added measure, three out of four grade-level cohorts were reported to have met their target on the Northwest Evaluation Association (NWEA) Measures of Academic Progress (MAP) total reading battery. In addition, three out of four cohorts scored at grade-level.

Brooklyn Excelsior has also demonstrated improved results in mathematics over the course of its charter period. In 2003-04, 24 percent of students were proficient on the state's fourth grade math assessment. The proportion of students achieving proficiency rose to 55 percent in 2004-05 and last

year 70 percent of students in grades 3-6 were proficient. On its comparative measure, Brooklyn Excelsior underperformed all five comparison schools as well as Region 8 in its first year of operation. It outperformed one comparison school the next year. In 2005-06 it outperformed three comparison schools as well as Region 8. On its value added measure, three out of four cohorts met their target on the NWEA math exam, and all four cohorts performed above grade level.

Brooklyn Excelsior has not met its Accountability Plan goals in science and social studies. However, the data are generally limited and 2005-06 data were not available from the State Education Department at the time this report was finalized. In science, Brooklyn Excelsior reports that 35 percent of fourth graders were proficient on the state assessment in the first year of the charter period (2003-04) and 43 percent were proficient in the second year (2004-05). In these first two years, the school underperformed for the most part its comparison schools and the region. In social studies, 52 percent of fifth graders were proficient on the state assessment in the second year of the charter period (2004-05). Brooklyn Excelsior did not have a fifth grade in the first year. Again, the school generally underperformed comparison schools and the region.

In 2005-06 Brooklyn Excelsior Charter School was deemed to be a school in good standing under the state's NCLB accountability system.

As part of its analysis, the Institute reviewed the Third Year Inspection Report for Brooklyn Excelsior Charter School, dated July, 12, 2006. This report summarizes conclusions about the school during its third year of operation which were drawn by an external school evaluation team engaged by the Institute, and is a part of the Institute's regular, ongoing school evaluation protocol.

Within the report, the school inspection team noted that: Brooklyn Excelsior was beginning to provide structures to support the diverse needs of students, teachers maximized the use of instructional time, and teachers closely followed the school's curriculum in ELA and mathematics. 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 continue the work of aligning the school's curriculum to state standards; to establish a shared understanding of how to improve the quality of instruction among teachers and administrators; and finally, to stabilize the school's teaching staff and create opportunities for shared decision-making with the goal of improving teacher morale. Furthermore, the report noted that the school had not yet fully integrated its character education program into the fabric of the school.

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 2006-07 academic year, the school has complemented its existing curriculum by incorporating additional tools and resources, such as *Real Math*, the Scott Foresman social studies textbook series, and the Lucy Calkins Units of Study-Writing Process program. The school has also added seven staff members, including an assistant principal and new teacher mentor to address issues relating to teacher support and retention. In addition, Brooklyn Excelsior has hired a guidance counselor, reading specialist, and three paraprofessionals to support the delivery of differentiated instruction. Furthermore, the school has adjusted its professional development program to better meet the needs of teachers and their students.

Organizational Effectiveness and Viability

Brooklyn Excelsior has been effectively 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 (five of seven) of the school's board of trustees were part of the founding team. The school continues to engage NHA as its management partner, and NHA provides "monthly dashboard reports" in five areas (principal, school leadership, school performance, school fund and discipline) to the board. Note that the school entered into a management contract with NHA in June of 2003, and that the contract remains in effect until such time as it is either terminated by either party on 90 days notice or the school's charter expires. The school board uses the information provided by the NHA reports to guide its decision-making. The school board has established three committees: 1) the Executive Committee (the voice of the Board outside of its meetings, authorized to make decisions on follow-up items from board meetings); 2) the Human Resource and Training Committee (provides approval and oversight on staff evaluation, hiring and dismissal, as well as a forum for feedback from staff on school policies and procedures); and 3) the Student Performance, Curriculum and Assessment Committee (monitors schools test performance, ensures compliance with federal statute, monitors execution of, and changes to, the school's curriculum and establishes specific goals and metrics with the principal regarding student performance).

Brooklyn Excelsior met its goal of at least 90% of parents indicating their satisfaction with the school's administration and education program (based on the 2005-06 parent survey); however, it has not yet met its goal of having 75% of parents respond. In the 2004-05 and 2003-04 school years, of the 52% and 64%, respectively, who responded, over 90% each year indicated their satisfaction with the school's program and administration. The most recent parent survey, 2005-2006, had a response rate of 61%. 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 re-enrollment rate has consistently met or exceeded 75%.

With respect to facilities, as noted previously, the school moved into a new building in the fall of 2004. The school board and NHA had great difficulty in renovating the facility on time, which resulted in a delayed opening of school for the 2004-05 school year and required intervention by the Institute to keep parents informed. The school board acknowledged its inadequacy with respect to planning and implementation of the move, and stated that it would intensify its oversight of NHA as a result.

Compliance with Applicable Law

Based on a limited compliance review of the Institute's files and State Education Department correspondence regarding Brooklyn Excelsior, the school appears to have been in general and substantial compliance with the Charter Schools Act and applicable law, rules and regulations with the following exceptions: 1) The school violated provisions in its charter related to facilities including informing and seeking approval of the Institute regarding a new facility in 2004. 2) In August of 2005, the State Education Department stated that the school had not submitted a report related to violent incidents on time, although the Institute notes that the Department could have done a better job of informing schools regarding that deadline. 3) In January 2005, the State Education Department notified the school that it had not submitted its Safe Schools Against Violence in

Education (SAVE) emergency plan to the State Education Department. To our knowledge, all of the foregoing violations were remedied.

While parents of students generated four written complaints during the term of the charter, all of them have been successfully resolved by the school and did not result in official action by the Institute. Also, after receiving complaints about inappropriate behavior in an after-school program provided by an outside vendor, the school investigated and then the school board terminated the contract with that vendor.

Based on information in its renewal application and a sampling of school board minutes, the school has followed its by-laws with respect to the number of trustees and the other provisions thereof. A review of the school's by-laws revealed a minor defect related to the number of trustees that must serve on a school board standing committee, which will be separately addressed by the Institute.

Fiscal Soundness

The school board has provided basic oversight, and the school, as it pertains to 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. NHA was required to cover budgetary deficits totaling more than \$2.8 million during the school's first three years of operations. By meeting its obligations, NHA was able to ensure the continued operation of the school. These deficits have been driven in part by high occupancy costs which will continue going forward. Although the school 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 audit was 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 control over financial reporting or an opinion on compliance.

The school completed its third operating year in weak but stable financial position. The school's net assets decreased slightly. Contributions of \$1.7 million dollars from NHA were required to balance the budget. 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 in 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 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

The School plans to continue to operate from the school's current location of 856 Quincy Avenue in Brooklyn. The Institute has 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 original charter application and charter, as it was originally granted authority to provide instruction in grades K-8. As a result of the school's decision to take a planning year, its original charter was amended in November of 2004, limiting the school's expansion to the last year of its charter term and at the seventh grade.

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, and, as described above, has adopted the use of a standards-based commercial program to complement its curriculum. 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.

According to the school's application for short-term planning year renewal, Brooklyn Excelsior would enroll a new Kindergarten class of 100 students, fill seats emptied through attrition, and add an eighth grade to accommodate its current 7th grade students. The total projected enrollment would be 740 students for the 2007-08 school year, which represents an overall increase of 110 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 Brooklyn Excelsior 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 an assistant principal 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 that Brooklyn Excelsior 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 Brooklyn Excelsior 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 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.