



Charter Schools Institute
The State University of New York

Summary of Findings and Recommendations

*Restructuring of Harlem Day Charter School as
Harlem Prep Charter School*

March 11, 2011

Recommendations

The Charter Schools Institute (the “Institute”) recommends that the Board of Trustees of the State University of New York (the “SUNY Trustees”) approve the application to restructure and renew Harlem Day Charter School (“Harlem Day”) as Harlem Prep Charter School (“Harlem Prep”) for a period of five years with authority to provide instruction in Kindergarten through fifth grade. The Institute further recommends that the restructured Harlem Prep be treated as a school in its Initial Charter Period under the *Practices, Policies and Procedures for the Renewal of Charter Schools Authorized by the Board of Trustees of the State University of New York*¹ (the “SUNY Renewal Practices”), with an accountability plan that begins with the 2011-12 academic year.

The Institute’s recommendation is contingent upon all of the conditions in the November 2010 *Request for Applications to Restructure a SUNY Authorized Charter School* (“RFA”) being fulfilled.

Background and Description

The Institute issued a *Request for Applications to Restructure a SUNY Authorized Charter School* (RFA) in November 2010 as an alternative to non-renewal and closure of the underperforming Harlem Day; an action supported by the Trustees’ Education, College Readiness and Success Committee (the “Committee”). This approach to restructuring a charter school is an innovative model which has not previously been done before in New York but is in keeping with the interests of the Trustees to minimize the disruption to families caused by school closure. Given the innovative nature of the proposal, and the short window of time in which the Institute could accept applications, only one application was received in response to the RFA—from Seth Andrew, founder and superintendent of Democracy Prep Public Schools (“Democracy Prep”), a non-profit charter management organization (incorporated as Democracy Builders, Inc.). As will be described more fully in the Summary of Application section of this document, the Institute has deemed the final restructuring application, proposed school board of trustees and the current Harlem Day board as having met all of these pre-conditions and conditions, and/or having demonstrated the ability to do so.

The RFA set forth general requirements for approval, including that an application must:

- Be deemed complete by the Institute, meeting basic criteria ranging from on-time submission of the application to having responses that are complete, coherent and respond to the question(s) asked;
- Meet the standard for describing a quality educational program and provide sufficient evidence that the proposed school is likely to operate in an educationally and fiscally sound manner, improve student learning and achievement and materially further the purposes set out in Education Law subdivision 2850(2) *as well as* meet any additional requirements established by the SUNY Trustees as part of their rigorous commitment to student achievement.
- Include a viable plan to attract and retain students with disabilities, students who are English language learners, and students who are eligible to participate in the federal free and reduced-price lunch program;

¹ Last amended in September 2009 and available at: <http://www.newyorkcharters.org/schoolsRenewOverview.htm>,

- Be filed independent of any for-profit management partner; and
- Demonstrate that the applicant team has the organizational capacity to effectively operate the school given the unique circumstances pertaining to this particular renewal situation.

The RFA also included a number of pre-conditions and conditions that the Institute required of both any applicant and the existing Harlem Day board of trustees:

- The applicant would be required to serve all students currently enrolled in the school that wish to remain enrolled, except for those who would have graduated from the highest grade and may opt to not serve the incoming grade.
- The school name must be changed and not be substantially similar to the existing name.
- The current school board of trustees would elect the proposed school trustees set forth in the RFA application as their replacements and then resign. The transition would occur after the close of the current school year, or earlier if agreed upon by the current Harlem Day school board and proposed Harlem Prep school board, and each new school trustee would be subject to the approval of the Institute through its Request for Information process.
- The current educational program of the school would be discontinued at the end of the 2010-11 school year and be replaced by the applicant's educational program for the commencement of the 2011-12 school year. This would be accomplished by having the existing school board amend its renewal application to substitute the Applicant's program for the one in the existing renewal application.²
- So much of teaching staff as the applicant desires could be retained with no requirement to retain any instructor or other staff member of the school, except to the extent that such employees are employed pursuant to a collective bargaining agreement, in which case the terms of such agreement would govern. (The existing school board has been permitted to pay reasonable retention bonuses to staff that remain through the end of the current school year.)
- The leadership team of the school would have to be replaced by the applicant, who would have the authority to retain only one or two members thereof at the sole discretion of the reconstituted school board of trustees.
- The applicant's educational program must be designed to serve the students who would have attended the school during the 2010-11 school year (as described below).
- The existing school board may not sue or join in any lawsuit against SUNY or the applicant regarding closure, non-renewal, restructuring or any transaction related to the closing of the school and the restart of a new academic program. Any breach of this provision would result in the non-renewal or expiration of the charter.
- The existing school board agreed to not seek renewal of the charter based on its renewal application so long as the SUNY Trustees agreed to review applications, if any, received in response to the RFA. In addition, while that application would remain on file, the

² Copies of the RFA application are available in the Albany office of the Institute.

existing school board will tender the withdrawal of the application to the Institute, which may permit the withdrawal or amendment of the initial renewal application at the Institute's sole discretion. The school board agreed that it will not petition/appeal or litigate any withdrawal or non-renewal of the initial (or amended) renewal application.

- The exiting school board also agreed to forgo a typical renewal inspection. In the event that a new operator's application was or is rejected for not meeting SUNY standards for a new application or a new operator does not wish to pursue the restructuring, the school also agreed to forgo a renewal inspection and petition/appeal. In any of these negative scenarios, the school would close at the end of its current charter term, and the school board agreed that it would dissolve the school's education corporation.
- If the Institute approved an application to restructure the school, the existing school board agreed to assist the new operator group by: 1) voting to approve the new program as part of the amended renewal application; and 2) amending the initial renewal application including, but not limited to, required student achievement, parent and financial data from the school's existing program per Education Law §2851(4). Note: neither the applicant nor the SUNY Trustees have legal authority to independently submit a renewal application.
- If an application progressed in the review process, the existing school board and staff agreed to provide access to the school as well as its financial records and other documentation for purposes of due diligence by the applicant, the proposed school trustees and their agents.
- Any successful applicant would be required to honor existing contracts of the education corporation, particularly the use of the current facility under the terms of the existing lease. A copy of the lease, as well as other existing contracts, was made available to all interested applicants.
- The RFA was explicit that assets and liabilities of the current education corporation existing at the time of a potential transition to any successful applicant would remain assets and liabilities of the education corporation, with new board of trustees ultimately responsible for governing their use. A full compilation of the existing assets and liabilities including, but not limited to, annual audited financial statements, bank statements and investments, statements of assets, operating and payroll account statements, and restricted and non-restricted grant revenue sources would be made available to any interested applicant upon request. The successful applicant would be required to complete a due diligence process regarding the information in this regard that is provided by the Institute.

At its November 2010 meeting, the Committee voted to permit the Institute to consider applications to restructure Harlem Day. In January 2011, the Committee voted to allow Democracy Prep additional time to develop its application given the expedited timeline for developing the initial response. Institute staff provided the applicant with a comprehensive Request for Amendments document, which outlined concerns with the original proposal.

Revisions to the application were submitted by the Democracy Prep team to the Institute on February 17, 2011. Institute staff extensively reviewed the revised application from an academic, legal and fiscal perspective and conducted an additional interview of the proposed school board of trustees.

Furthermore, member of the Committee had the opportunity to question the proposed school board of trustees and representatives of Democracy Prep on March 7, 2011. A discussion of the elements of the application is contained in the “Summary of the Application” section, below.

In preparation for either the approval of the Democracy Prep application by the SUNY Trustees or the closure of Harlem Day, the Institute worked with Harlem Day Charter School leadership to provide Harlem Day parents with information about applying to other charter, parochial and private schools as well as details on enrollment in their assigned district school. Institute staff has been to the school to talk directly with parents twice in addition to collaborating with the current school leaders and board about the collection and distribution of information.

As set forth below, the applicant demonstrated the capacity to implement a new educational program at Harlem Day within the terms and conditions of the RFA and with the existing corporate, legal and fiscal framework in place at Harlem Day. In addition, the existing Harlem Day school took all steps necessary to meet all of the pre-conditions and conditions of the RFA, including submission of a revised renewal application to the Institute.

Summary of the Application

Harlem Prep Charter School would open in the fall of 2011 after restructuring the existing Harlem Day. The restructured school would guarantee each current student enrollment in the school, with the exception of students currently in 5th grade. The school would backfill any vacant seat to a total enrollment of 54 (2 classes of 27 each) students each in Kindergarten through 3rd grades, and 27 (1 class each) students each in 4th and 5th grades. By the fifth and final year of the charter period the school would enroll 54 students in each grade with a total enrollment of 324 students. In the lower grades, two full-time teachers would be assigned to each classroom, while 1.5 teachers would be allocated to each classroom in the upper grades.

Harlem Prep would provide for a school year consisting of at least 195 instructional days, including a three week summer program. Instruction occurring on Saturday would be regularly provided for students at risk of academic failure. The school day would last from 7:30 a.m. to 4:00 p.m., with the exception of Fridays, when dismissal would occur at 1:30 p.m. to provide for sustained professional development opportunities for teachers. In addition, a 75 minute period would be available after the regular school day for students in need of remediation and tutoring on Mondays through Thursdays.

The mission of Harlem Prep would be, “to educate responsible citizen-scholars in grades K-5 for success in the college of their choice and a life of active citizenship.” The school would also embrace the motto of its management partner: “Word Hard. Go to College. Change the World.” The school intends to meet this mission and motto through the implementation of DPPS’s “no excuses” educational model that is comprised of the following key design elements:

- rigorous, college-prep academics, including an accelerated focus on the New York State Learning Standards and the Common Core State Standards;
- more time to learn, including an extended school day and year;
- data-driven instruction, including sophisticated feedback loops to ensure that teachers are aware of the learning needs of their students, and meet these needs based on the effective use of various student assessment data;
- a safe and supportive school culture;

- an appreciation for human talent, including base salaries for teachers that exceed New York City Department of Education levels and include performance-based compensation bonuses;
- a commitment to educating all students in all subjects; and
- authentic civic leadership and engagement opportunities.

The organizational structure of Harlem Prep would include an executive director responsible for the overall operation of the school who would report to both DPPS and the school board. Two academy directors, one responsible for the lower school (K-2) and one for the upper school (K-3), would report to the Executive Director and would be the primary instructional leaders of the school while focusing on their respective grade levels. An operations manager would also report to the executive director and would be responsible for all non-instructional day-to-day operations functions. An Academic Collaboration Team would provide for in-class and out-of-class supports for students at risk of academic failure, students with disabilities, and English language learners.

The school board would contract with DPPS for overall management services for a fee of 15% of the school's total revenue. Management services provided to the school by DPPS would include staff recruitment, academic program support, professional development, curricular systems, back-office and finance management, and assessment systems.

To overcome restructuring challenges, the school would use the remainder of the current school year to intensively assess current school leaders and teachers to determine who if any would be rehired as Harlem Prep staff. In addition, DPPS staff would assess all current students to determine their individual and overall academic needs in order to implement a program that would meet these needs. Harlem Prep's retention policy would require some existing students to repeat a grade if needed.

The Harlem Prep by-laws indicate the school board would consist of not less than 5 voting members, and not more than 13. The proposed initial members of the board of trustees are set forth below.

1. **Seth Andrew** – Superintendent and member of the board member of Democracy Prep Public Schools.
2. **Carlos Lejniaks** – President and Chief Executive Officer of Big Brother Big Sisters of Essex.
3. **Andrew Swartz** – Vice President, Liberty Partners, a middle market private equity fund.
4. **Douglas Snyder** – Co-Founder, Longbow Capital Partners, L.P.
5. **Devin Johnson** – General Manager, Digital Works at NBC Universal.
6. **Damian Travier** – Director of Education and Leadership Development, Jackie Robinson Foundation.
7. **Allyson Downy** – former Managing Director, Spitzer 2010.
8. **Colin Beirne** – Senior Vice President for Strategic Initiatives, Two Sigma Investments.
9. **Jake Foley III** – Managing Director, Houlihan Lokey, an international, advisory-focused investment bank.

If approved, Harlem Prep would be located in the same private facility space as the existing Harlem Day, which would include the conditions of its current lease. The school is located in the Taino Towers complex, located in New York City Community School District 4 at 240 East 123rd Street in Harlem.

The Institute notified the school district as well as public and private schools in the same geographic area of the application to restructure the school and, as of the date of this report, has received no comments from these entities.

Application and Renewal Findings

Based on the comprehensive review of the application, discussion with external experts while reviewing the proposal and interviews of the applicant and the proposed board of trustees, the Institute makes the following findings in the context of the RFA, which it would normally make for a new application. As an alternative to closure, the restructuring of Harlem Day is technically a charter renewal. Even though the renewal will be outside of the SUNY Renewal Practices, the minimum requirements of the Act must still be met. Based on all of the forgoing, the Institute makes the following findings required by Education Law section 2852 for a charter renewal.

1. The proposed restructured charter school described in the application meets the requirements of Article 56 of the Education Law (as amended) and other applicable laws, rules, and regulations as reflected in (among other things):
 - the required policies for addressing the issues related to student discipline, complaints, personnel matters and health services;
 - a viable plan to attract and retain students with disabilities, students who are English language learners, and students who are eligible to participate in the federal free and reduced-price lunch program and the inclusion of appropriate policies and procedures for the provision of services and programs to meet the needs of these students;
 - an admissions policy that complies with the Act and federal law; and
 - the inclusion of the proposed by-laws for the operation of the school's board of trustees.
2. The applicant (school) has demonstrated the ability to operate the school in an educationally and fiscally sound manner as reflected in (among other things):
 - the provision of an educational program that meets or exceeds the State performance standards;
 - rigorous student achievement goals articulated by the applicant;
 - an appropriate roster of educational personnel;
 - a sound mission statement;

- a comprehensive assessment plan;
 - the provision of a sound budget plan for the term of the proposed charter period;
 - the inclusion of a school calendar and school day schedule that provide at least as much instruction time during a school year as required of other public schools;
and
 - the inclusion of methods and strategies for serving students with disabilities in compliance with all federal laws and regulations.
3. Approving the renewal application is likely to: 1) improve student learning and achievement; and 2) materially further the purposes of the Act. This finding is reflected by (among other things):
- the inclusion of a curriculum crosswalk document that specifies how the proposed curriculum will ensure that students will meet or exceed the performance standards of the Board of Regents, reflecting the full implementation of the Common Core State Standards beginning in the fall of 2012;
 - a comprehensive plan to assess student achievement through the use of State tests, externally-verifiable standardized tests and other diagnostic assessments;
 - an extended school year and school day;
 - the inclusion of significant opportunities for professional development of the school's instructional staff prior the start of each school year and throughout the year;
 - a commitment to providing an educational program focused on outcomes, not inputs;
and
 - an organizational structure with an explicit focus on instructional leadership to improve teaching and student learning.

Conclusion and Recommendations

Based on its review and findings, the Institute recommends that the SUNY Trustees approve the application to restructure and renew Harlem Day Charter School as Harlem Prep Charter School outside of the SUNY Renewal Practices with authority to provide instruction in Kindergarten through 5th grade for a period of five years; and thereafter to be treated as a new school for purposes of renewal.