



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK

SECRETARY, BOARD OF REGENTS  
Rm. 110, State Education Building  
Albany, New York 12234  
Tel. (518)474-5889  
Fax (518) 486-2405  
E-mail: DJohnson@mail.nysed.gov

January 31, 2006

Alma L. Alston  
Merrick Academy – Queens Public Charter School  
207-01 Jamaica Avenue  
Queens Village, New York 11428-1544

RE: Document No. 212  
Merrick Academy – Queens Public Charter School  
Revision to Charter  
Date of Action: July 21, 2005

Dear Ms. Alston:

Enclosed is a copy of the Revision to Charter for the above-referenced school. Please file it at the school's corporate office. Kindly acknowledge receipt of this document by completing the bottom section of this letter and returning the letter to the Regents Office, Room 110, State Education Building, Albany, New York 12234.

Thank you.

Sincerely,

David Johnson

Enclosure

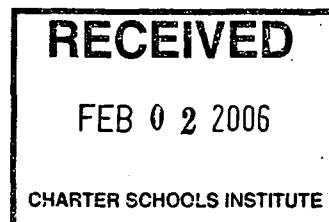
RECEIVED BY:

DATE RECEIVED:

2/2/06

cc: Anne Marie Koschnick  
James Butterworth  
Darlene Mengel  
Ira Schwartz  
James D. Merriman, IV

REDACTED



*The University of the State of New York*  
Education  Department

**MERRICK ACADEMY – QUEENS PUBLIC CHARTER SCHOOL**

**REVISION TO CHARTER**

This Instrument Witnesseth That the Board of Regents for and on behalf of the Education Department of the State of New York at their meeting of July 21, 2005,

Voted, that

The Board of Regents approve the proposed revisions to the charter of Merrick Academy – Queens Public Charter School as set forth in the attached First Revision to the Second Charter Agreement dated June 6, 2005 between Merrick Academy – Queens Public Charter School and the Board of Trustees of the State University of New York.



**Granted, July 21, 2005, by the Board of Regents of The University of the State of New York, for and on behalf of the State Education Department, and executed under the seal of said University and recorded as Number 212.**

*R. M. Bennett*

Chancellor

*R. L. P. Hill*

President of the University and  
Commissioner of Education

**FIRST REVISION TO THE SECOND RENEWAL CHARTER**

1. This agreement is executed on this the 10<sup>th</sup> day of June 2005 by and between the undersigned to revise the second renewal charter agreement between them entered into on or about the 31<sup>st</sup> day of March 2005.

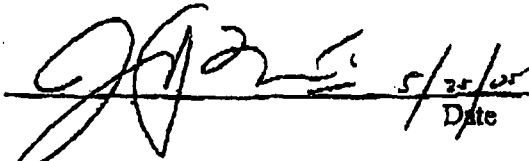
2. The Charter Agreement is proposed to be revised per the terms set forth in Exhibit A attached hereto, such proposed terms having been approved by the Trustees.

3. The revision shall only take effect upon approval by the Board of Regents or by operation of law pursuant to § 2852(5-a) or § 2852(5-b) of the Education Law as the case may be.

4. Capitalized terms used in this amendment are defined as set forth in the Charter unless otherwise indicated, as is the use and validity of facsimile signatures and the execution of this amendment by counterpart.

**BOARD OF TRUSTEES OF THE  
STATE UNIVERSITY OF NEW YORK**

**MERRICK ACADEMY -  
QUEENS PUBLIC  
CHARTER SCHOOL**

  
Date

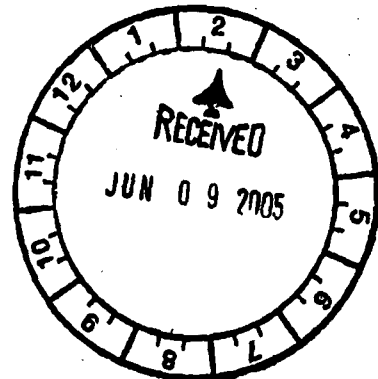
\_\_\_\_\_  
Date

By: James D. Merriman IV, acting for  
the Board of Trustees of the State  
University of New York

By:

Title: Executive Director, Charter Schools Institute,  
State University of New York

Title:



FIRST REVISION TO THE SECOND RENEWAL CHARTER

1. This agreement is executed on this the 6 day of June 2005 by and between the undersigned to revise the second renewal charter agreement between them entered into on or about the 31<sup>st</sup> day of March 2005.
2. The Charter Agreement is proposed to be revised per the terms set forth in Exhibit A attached hereto, such proposed terms having been approved by the Trustees.
3. The revision shall only take effect upon approval by the Board of Regents or by operation of law pursuant to § 2852(5-a) or § 2852(5-b) of the Education Law as the case may be.
4. Capitalized terms used in this amendment are defined as set forth in the Charter unless otherwise indicated, as is the use and validity of facsimile signatures and the execution of this amendment by counterpart.

BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK

MERRICK ACADEMY - QUEENS PUBLIC CHARTER SCHOOL

\_\_\_\_\_  
Date

*Juanita Watkins*  
Date 6/6/05

By: James D. Merriman IV, acting for the Board of Trustees of the State University of New York

By: *Juanita Watkins*  
*Chair, Merrick Academy-Queens Public*

Title: Executive Director, Charter Schools Institute, State University of New York

Title: *Charter School Board of Trustees*

Exhibit A

1. Exhibit D of the Charter is revised to delete Paragraph 1 in its entirety and replace it with the following:

1. The School is limited to providing instruction in grades Kindergarten through six (6) in every year of the Charter.

2. The Charter is revised to delete the enrollment chart on the first page of Exhibit A, Terms of Operation, except for the data related to 2004-2005, and substitute it with the following Projected Enrollment chart:

**FISCAL YEAR**

	2005-06	2006-07	2007-08	2008-09	2009-10
Kindergarten	100	75	75	75	75
1 <sup>st</sup> Grade	50	100	75	75	75
2 <sup>nd</sup> Grade	75	50	100	75	75
3 <sup>rd</sup> Grade	75	75	50	100	75
4 <sup>th</sup> Grade	75	75	75	50	100
5 <sup>th</sup> Grade	75	75	75	75	50
6 <sup>th</sup> Grade	50	75	75	75	75
Total Enrollment	500	525	525	525	525

# THE STATE UNIVERSITY of NEW YORK

May 24, 2005



## MEMORANDUM

**TO:** Members of the Board of Trustees

**FROM:** Edward F. Cox, Co-Chair, Charter Schools Committee;  
Randy A. Daniels, Co-Chair, Charter Schools Committee

**SUBJECT:** Amendment to the Charter of the Merrick Academy –  
Queens Public Charter School

Office of the  
Board of Trustees

State University Plaza  
Albany, New York  
12246

518 443 5157  
fax - 518 443 5159

We recommend that the Board of Trustees adopt the following resolution:

Whereas the Second Renewal Charter Agreement (the "Charter") between the Merrick Academy – Queens Public Charter School (the "School") and the Board of Trustees (the "Board") was approved by the Board on March 1, 2005, and approved by the Board of Regents on May 17, 2005; and

Whereas the Charter contains a five year term but restricts enrollment at the School to 450 students in grades Kindergarten through six during the 2004-2005 school year and to 570 students in grades Kindergarten through five for each year of the Charter commencing with the 2005-2006 school year; and

Whereas the School has taken certain steps to improve its academic program in the upper grades, applied to amend its Charter to allow the School to instruct students in grades six and seven beginning with the 2005-2006 school year and for the balance of the Charter term (copy on file in the offices of the Charter Schools Institute), and submitted the application to the Charter Schools Institute; and

Whereas the Charter Schools Institute has conducted its review and prepared a summary of its findings and recommendations (the "Summary of Findings and Recommendations") (copy on file in the Office of the Secretary) and distributed same to the Board; and

Whereas the Charter Schools Institute, as set forth more fully in the Summary of Findings and Recommendations, has concluded that the School would be best served by restoring its sixth grade commencing with the 2005-2006 school year and for the balance of the Charter term (the "Proposed Change in Program"), and not expanding to the seventh grade, and that the Proposed Change in Program is (1) consistent with applicable laws and (2) its approval would satisfy subdivision 2852(2) of the Education Law, and has recommended its approval; and

Whereas the Charter Schools Institute has further determined that the Proposed Change in Program, if it is to go into effect, requires a revision to the Charter pursuant to subdivision 2852(7) of the Education Law; and

Whereas a revision to a charter must be approved by the Board in its capacity as a charter entity; and

Whereas the Board has reviewed and considered the findings and recommendations of the Charter Schools Institute regarding the Proposed Change in Program; now, therefore, be it

Resolved that the Board finds that the Proposed Change in Program (1) meets the requirements of Article 56 of the Education Law (and all other applicable laws and regulations), and that its approval (together with the other terms of the Charter) would (2) permit the School to operate in a fiscally and educationally sound manner, and (3) improve student learning and

achievement and materially further the objectives of the Charter Schools Act; and be it further

Resolved that the Proposed Change in Program be approved as a proposed revision to the Charter; and be it further

Resolved that the Charter Schools Institute, acting through its Executive Director, be, and hereby is, directed to enter into a proposed revision to the Second Renewal Charter, such proposed revision to incorporate the terms of the Proposed Change in Program, and, thereafter to submit such agreement to the Board of Regents for its review, comment and potential approval.

## BACKGROUND

The Board renewed the charter of Merrick Academy – Queens Public Charter School (the "School") for a five-year term on March 1, 2005. As a condition of renewal the School had to cease instruction in the sixth grade and restrict enrollment to grades K-5 after the 2004-2005 school year. Prior to the Board's renewal decision, the School sought to restore its sixth grade and later made an application to add sixth and seventh grades (copy on file in the offices of the Charter Schools Institute). The Institute reviewed the request and steps the school has taken to date to strengthen its middle school program. As set forth in the Institute's Summary of Findings and Recommendations distributed to the Board (copy on file in the Office of the Secretary), the Institute determined that the sixth grade could be restored but that the School could not expand to the seventh grade until such time as it shows measurable academic success in the fourth, fifth and sixth grades. The Summary of Findings and Recommendations describes the proposed change in program and contains a recommendation to the Board to approve the addition of sixth grade instruction.



**Charter Schools Institute**  

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**State University of New York**

**Summary of  
Findings and Recommendations**

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**Proposed Revision to Charter of the  
Merrick Academy — Queens Public Charter School  
Queens, New York**

**May 13, 2005**

## Executive Summary

The Merrick Academy – Queens Public Charter School (“Merrick” or the “School”), authorized to serve 450 student in grades K-6 for the 2004-2005 school year, and 570 students in grades K-5 during the 2005-2006 school year and each subsequent year of the five-year second renewal charter (the “Second Renewal Charter”), seeks an amendment to permit it to serve 570 students in grades K-7 for the 2005-2006 school year and the remaining years of its Second Renewal Charter.

The Institute recommends that the State University Board of Trustees amend the School’s Second Renewal Charter to only approve the addition of instruction in the sixth grade, and not approve the addition of a seventh grade.

## **Background**

The School’s original charter was renewed for five years by the State University Board of Trustees the (“Board”) on March 1, 2005. A First Renewal charter between the School and the Board with a term through and including June 30, 2005 was approved by the Board of Regents on March 15, 2005.<sup>1</sup> The Second Renewal Charter is currently before the Board of Regents for approval or return to the Board, and at the earliest will be effective on July 1, 2005 and will expire five years after its effective date.

The Charter Schools Institute (the “Institute”) on page 9 of its renewal report for the School<sup>2</sup> recommended restrictions on the enrollment and grades served at the School as follows:

The Charter Schools Institute recommends that the State University Board of Trustees approve the application for renewal of the Merrick Academy – Queens Public Charter School and renew the charter of Merrick Academy for a period of five years subject to the applicable terms of the renewal application and subject to the following additional conditions: Merrick shall have authority to provide instruction in grades Kindergarten through six with an enrollment of 450 for any portion of the 2004-05 school year; thereafter the school’s authority to provide instruction shall be limited to grades Kindergarten through five with a maximum enrollment in each such year of 570 students, and at all times consistent with the other applicable terms of the renewal application.

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<sup>1</sup> The structure of creating two distinct renewal charters (a First Renewal Charter through June 30, 2005 and a Second Renewal Charter for the full renewal term approved by the Board) was to accommodate both the Charter Schools Institute’s renewal schedule and the Board of Regents’ review and meeting schedule.)

<sup>2</sup> Available at [http://www.newyorkcharters.org/pdf/RenewalReports/Merrick\\_Academy05.pdf](http://www.newyorkcharters.org/pdf/RenewalReports/Merrick_Academy05.pdf).

The recommendation was based on weakness in the instructional program at the fifth and sixth grade levels and a finding that the School did not have "the personnel, programs and capacity that permit the Institute to find a likelihood of success in improving student achievement in the sixth, seventh and eighth grades."

The Board approved a renewal charter for the School that contained the above restrictions. However, at the February 23, 2005 meeting of the Board's Committee on Charter Schools, the School (following up on a letter) (copy on file in the offices of the Institute) orally petitioned the Committee for a restoration of the School's sixth grade, and the Committee stated that such a change could later be entertained as a revision to the charter. Letters from the School requesting a change in program to add sixth and seventh grades, and supporting documentation followed (copies on file in the offices of the Institute).

### Findings

Merrick Academy - Queens Public Charter School's request to amend its charter to serve sixth and seventh grade students contains sufficient plans in the areas of assessment, curriculum, staffing and professional development. To address the Institute's renewal findings that the School struggled with instructional effectiveness at the upper grades, that the school lacked sufficient instructional leadership and professional development capacity to ameliorate instructional weaknesses, and that the curriculum presented at the time of renewal was not sufficient to the needs of middle school students, the School has hired a middle school assistant principal with a record of success. As principal at the South Orangetown Middle School in Blauvelt, Rockland County, NY (South Orangetown Central School District), this individual restructured the program in grades six through eight with his work resulting in a passing rate of 100% on Board of Regents' science and mathematics examinations. In addition to hiring a middle school principal, the Merrick hired a lower school assistant principal to assist in increasing the instructional effectiveness of Merrick's fourth and fifth grade teachers.

The School's request to grow to serve students in grades six and seven also includes a staffing plan detailing the attributes the school will seek for each position. These attributes include state certification, exemplary experience teaching the grades and subjects served as well as content knowledge and the ability to differentiate curriculum such that different learning levels and learning styles are effectively addressed in each classroom.

In addition the School has presented a professional development framework that is a part of Victory Schools, Inc.'s (the School's management company) six point middle school initiative as follows: 1) teachers will receive one to one coaching with a master instructional specialist; 2) teachers will attend middle professional development retreats; 3) the School will build effective planning teams; 4) the School will create extended professional development resources for teachers; 5) the School will create student advisory and leadership programs; and 6) the School will create forums and opportunities to develop high level content assessments.

The proposed curriculum for expansion includes using a balanced literacy program for English language arts using McDougal Little trade books and the Great Source Writing program, both of

which link to state standards. In mathematics the School will use Impact Mathematics: Algebra and More, which is consistent with state standards and the federal No Child Left Behind Act requirements. Science curriculum will be delivered using the Glencoe/McGraw Hill Science series and supplemented with National Geographic. The School will continue, as it does in lower grades, to use E.D. Hirsch's Core Knowledge Scope and Sequence for Social studies but will supplement it with Scott Foresman and Prentice Hall textbooks to ensure state standards are being met.

As stated above the School's written plans are sufficient to merit additional grades, however, as with all instructional endeavors, it is the implementation of plans and the resulting teaching and learning in the classroom that proves a school's ability to increase student learning and achievement. As the Institute found during the renewal visit in June 2004 and again at a follow-up visit in the fall of 2004, Merrick Academy - Queens Public Charter School had not sufficiently implemented a middle school program that was likely to lead students to achieve at the levels demanded by state standards.

In the ensuing period of time the School has added additional detail, and most importantly staff with experience and success in middle school, that would allow the School to expand to include sixth grade. The Institute recommends amending Merrick's charter to allow the school to serve students in Kindergarten through sixth grade but not seventh grade until such time as the School posts external assessment data in grades four, five and six that presents an unambiguous record of success in serving those students. Only on the basis of hard data indicating the School's success in Kindergarten through sixth grade should the Board entertain allowing the School to expand to serve students in grades seven and beyond.

As the proposed change in program does not disturb the enrollment restrictions of the Second Renewal Charter, little financial analysis is required and there is no change in fiscal impact on the New York City School District. The School has submitted a revised financial plan to take account of the increased expenses and revenue that the School will realize as a result of the changes to grades served. The projected fiscal plan is sound. Overall, the plan provides somewhat improved fiscal results over the K-5 model. Differences in the two plans include the following: Under the K-6 model, there are fewer classroom assistants, the K-5 model would force the school to increase enrollment in grades K and 1 resulting in one additional teacher assistant position in 2006, five in 2008 and three in 2009. Under the K-6 model the school will have one additional classroom, which is the result of logistics - the school would have limited the number of new students entering, while under the K-6 model it can retain its own students for another year.

The K-6 model budgets for two assistant principals, while deleting a staff developer position that was included in the K-5 model. The cost of the increased number of teachers in the K-6 model is more than offset by the fact that the School will have one more classroom. The fiscal plan would allow the school to repay its facility loan by the end of the charter period and reduce the amount it owes in deferred management fees. Other differences are not material.

The School facility is sufficient in capacity to permit the School to serve a sixth grade as it had in the last year of its original charter. In addition, the School enjoys strong community support as evidenced by parents who do not want to return their children to district middle schools.

### **Conclusions and Recommendations**

As set forth above, the Merrick Academy – Queens Public Charter School has presented sufficient information and hired or proposed to hire adequate staff to support a sixth grade for each year of its Second Renewal Charter. However, until the School demonstrates academic success in the fourth, fifth and sixth grades, the Institute cannot recommend the addition of a seventh grade. Further:

- The School's has presented a curriculum plan for sixth grade in the proposed amendment to the Second Renewal Charter that meets or exceeds the performance established by the Board of Regents.
- The proposed amendment to the Second Renewal Charter will allow the School to continue to operate the School in an educationally and fiscally sound manner.
- The proposed amendment to the Second Renewal Charter will allow the School to continue to be likely to improve student learning and achievement and to materially further the goals of the Charter Schools Act of 1998, as set forth at subdivision 2850(2) of the Education Law.
- The Second Renewal Charter (as proposed to be amended and revised) is consistent with applicable law, rules and regulations including the requirements of the Charter Schools Act of 1998, as amended.

Accordingly, the Institute recommends that the State University Board of Trustees approve the requested amendment to allow the Merrick Academy – Queens Public Charter School to enroll students in grades Kindergarten through sixth grade for all years of the Second Renewal Charter.

April 28, 2005

**VIA FEDERAL EXPRESS**

Mr. Ralph A. Rossi II  
General Counsel  
Charter Schools Institute  
74 North Pearl Street, 4<sup>th</sup> Floor  
Albany, NY 12207

Re: Request for Change in Grades Served

Dear Mr. Rossi:

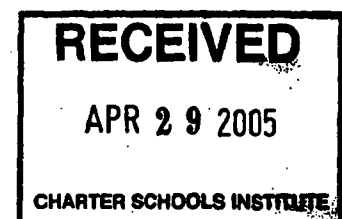
I am writing in response to your letter dated April 18, 2005 regarding our request to change the grades served by Merrick Academy – Queens Public Charter School in the School's Second Renewal Charter. As we have indicated, it is our wish to restore Merrick Academy's 6<sup>th</sup> grade and add a new 7<sup>th</sup> grade next year in order to continue our commitment to the students, parents, and southeast Queens community served by our school. You noted that this proposed change constitutes a material change to Exhibit D; hence, we have included all information and actions requested in your letter in hope that this additional information will be presented with our request and approved at the Board's May 24<sup>th</sup> meeting, "in order to guarantee it will be effective for the start of the new year."

To address and alleviate, "problems regarding the instructional effectiveness [and] professional development" at Merrick Academy in the upper grades, as noted in the *Renewal Report*, p. 45, we have created a new Staffing Structure and hired such persons as part of our request for a change in program. The new Staffing Structure description, rationale, and resumes of new Assistant Principal hires are included in **Attachment #1**.

Also, in order to address the capacity issues of staff selected for grades 6 and 7, we have presented a staffing plan that includes the number of teachers, curricular and grade assignments, as well as a list of attributes for such staff including content knowledge, subject matter expertise, past successes and experience Merrick will use in hiring such staff. [See **Attachment #2**.]

In addition to staffing structures and hiring expectations, we are presenting a more detailed Professional Development Plan linked to consistent and ongoing teacher capacity building aimed toward continuous improvement in student achievement. [See **Attachment #3**.]

Additionally, we have included the following materials for your review:  
**Attachment #4** – Proposed Curricula  
**Attachment #5** – Revised 5-Year Budget  
**Attachment #6** – Copy of New Management Contract



Ralph A. Rossi II  
Page 2

I am happy to provide any additional information as needed or answer any questions that may arise. Please let me know how I may assist you.

Thank for your attention.

Sincerely,

*Juanita E. Watkins*

Juanita E. Watkins  
Chair, Merrick Academy Board of Trustees

cc: Edward F. Cox, SUNY Board of Trustees  
James Merriman, Executive Director, CSI  
Alma Alston, Principal, Merrick Academy  
Emmanuel Kostakis, Assistant Principal, Merrick Academy  
Courtney Simon, Assistant Principal, Merrick Academy  
Margaret Harrington, COO, Victory Schools  
James Stovall Esq., Victory Schools

Enclosures

**ATTACHMENT #1**  
Request for Change in Grades Served  
April 28, 2005

**Merrick Academy –Queens Public Charter School**

# **New Staffing Structure for Middle Grades**

## Introduction

*To address and alleviate “problems regarding the instructional effectiveness [and] professional development” at Merrick Academy in the upper grades, as noted in the Renewal Report, p.45 , we have created a new Staffing Structure and hired such persons as part of our request for a change in program. The new Staffing Structure description, rationale, and accompanying resumes of new Assistant Principal hires are noted below.*

### Hiring of New Middle School Assistant Principal

A new highly experienced and successful full time middle school assistant principal was hired and began his tenure effective April 11, 2005. Mr. Emmanuel Kostakis, a former middle school principal, director, math and science teacher and adjunct lecturer at CUNY’s Basic Writing Program, comes to us with a wealth of experience and a long record of achievements in the field of middle school education. Mr. Kostakis was also the co-founder of the Isaac Newton School for Math and Science in the then NYC School District 4 in East Harlem and prior to that his Math & Science teaching experience was in CSD 5 in Harlem.

As Director and co-founder of the Isaac Newton School, he created this magnet school of choice for inner city students who had an interest in math, science or computer technology - but had not the opportunity to pursue these interests in their particular settings. The Isaac Newton School was recognized by the Director of Minority Economic Impact of the U.S. Department of Energy as a “School of Excellence.” The school was designed around a rigorous academic curriculum that set high academic standards. After only one year, all students met or exceeded growth achievement standards at that time. Students who began well below grade level showed exceptional growth in their two years at Newton. Also, the specialized HS acceptance rate for the Newton school out ranked any middle school in the city with the same demographics.

More recently, Mr. Kostakis served as principal of the South Orangetown Middle School where he implemented a full teaming program in grades 6-8; and restructured the Grade 8 math and science curricula from a tracking system to a heterogeneous one with the following results:

- Regents Earth Science enrollment increased 210% over two years
- Sequential 1 math regents enrollment increased 252% over 2 years
- 100% passing rate for 8<sup>th</sup> graders in math and science regents’
- Mastery level attained by 85% of students in math

As principal, he also piloted and implemented academic inclusion models for special education students in all content areas.

All of Mr. Kostakis’ references gave testimony, not merely of his extraordinary accomplishments, but also of his exceptional skills in professional development and capacity building among staff providing an infrastructure and capacity for continuous improvement and excellence.

### Hiring of New Lower School/Upper Grade Assistant Principal

In the June, 2004 renewal visit, it was determined that the program in grades 4 & 5 was weak. Therefore, there was concern from CSI concerning growth to the middle level. With this in mind, and to strengthen both the capacity and instruction in Grades 4 & 5, Merrick Academy has also hired Ms. Courtney Simon to serve as an assistant principal in the upper grades of the lower school. Ms. Simon also comes with a record of success and achievements. She is currently a middle school assistant principal supervising ELA and Social Studies in Middle School 254 in the Bronx.

Ms. Simon's interview clearly demonstrated her understanding of NYS standards and the rigor, expectations and artifacts critical to having students meet and exceed these standards. We felt that, not only would she restructure the upper grades of the lower school, but that her expertise and knowledge as a middle educator would strongly enhance work being done in Grades 4 & 5 to prepare students for greater success in the middle grades. Also, in the content areas, both she and Mr. Kostakis would share [he=Math/Science & she=ELA/SS] and provide a needed vertical lens and insight to content continuum, K-8.

Ms. Simon's tenure will begin July 1, 2005 so that Ms. Alston and her team may effectively plan for the school year 2005-2006.

[Resumes follow.]

### Selection of Lead Teachers in Grades 6 & 7

In the June review visit and in the Application for Renewal, it was noted that in order to build long term capacity and excellence in instruction, Lead Teachers would be selected from among the staff to ensure that master or exemplary teachers were both recognized and encouraged to work with colleagues in a growth driven approach that fosters high-level content specific strategies and outcomes.

At this juncture, in the evolving Merrick Academy Middle School, our current population does not warrant the number of staff necessary to realize an effective Lead Teacher program in every content area. Hence, as noted in the sections above that describe the credentials and expertise of the newly hired assistant principals and in the following section on Professional Development, Merrick Academy has provided essential and key persons, in the role of APs, to frame, implement and continuously assess the tenets of an ongoing professional development plan that will eventually result in developing lead teachers in the content areas.

## Professional Development Impact of Hiring Experienced APs

It is expected that the assistant principals will train and develop teachers to function as in-house content specialists in the future as they determine their readiness in knowledge and skills to assume leadership responsibilities among their colleagues.

In the area of ensuring robust instruction that produces students whose writing clearly demonstrates their facility across curriculum areas, both assistant principals understand the importance of and are skilled in explicit writing instruction for teachers. They will introduce and set up monitoring strategies to ensure that explicit writing instruction is occurring across the content areas such that:

1. students are able to demonstrate their knowledge of the writing process [brainstorm, draft, revise, edit, conference, pair share, revise, publish] by using the process to develop products they can measure against applicable rubrics guiding them toward exemplary products;
2. teachers receive content writing specific workshops that guide them in developing students' ability to write in the content areas;
3. writing specialists are engaged such as Victory Schools, Inc. instructional specialists (Ellen Victor and Eileen Cuff former APs English, fully trained in writing process...) to offer one-on-one support to teachers, minimally twice a month;
4. writing is done every day and connected to each subject; and
5. student products will be upgraded to reflect higher levels of cognition to generate products that reflect *analysis, synthesis and evaluation* in creative, current art, media or tech formats such as:
  - 5.1 power point presentations; graphs; charts; diagrams; surveys
  - 5.2 web quests; new games
  - 5.3 content area newsletters; editorials; investigations
  - 5.4 videos; *infomercials*; film
  - 5.5 scripts – skits; plays
  - 5.6 TV broadcasts; panels.

**Emmanuel Kostakis**

March 6, 2005

Human Resources Administrator  
Victory Schools, Inc.  
111 West 57<sup>th</sup> Street, Suite 525  
New York, NY 10019

HUMAN RESOURCES

MAR 11

Dear Human Resources Administrator:

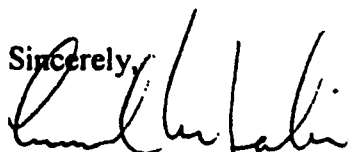
I am interested in applying for the position of Middle School Assistant Principal of the Merrick Academy. I believe my extensive experience as a middle school administrator will add considerable depth to the Merrick Academy program. Attached, for your consideration, is my resume.

My experience in schools has covered a wide range of administrative and supervisory functions. My central office experience has given me the opportunity to participate and coordinate the hiring, training, and evaluation of all staff. As principal of the South Orangetown Middle School in Blauvelt, and prior to that, as co-founder and director of The Isaac Newton Middle School in New York City, I have been able to design, implement and assess processes and programs that helped create and sustain two exemplary middle school models. I also have had the opportunity to supervise and assess our k-12 special education program, allowing me to deal first hand with alternate educational processes, along with sensitive legal and educational issues.

My experience as a middle school educator has given me a broad perspective of the characteristics and needs of early adolescents, and has allowed me to successfully implement developmentally appropriate programs and processes that support middle school philosophy. These programs reflect the broad spectrum of essential elements that define an effective middle school environment: an academically challenging curriculum; a strong teaming process that allows for flexible scheduling; courses that emphasize higher order thinking skills; student participation in a wide range of academic and extra curricular activities; teaching approaches that address differences in learning styles; and setting goals that target a love of learning, social responsibility, and moral development.

My goal is to create an environment that promotes dedication, creativity, and educational excellence. I believe that my skills and experience will help create and maintain the best possible educational environment for our children. I look forward to the challenge of working in an organization committed to the pursuit of excellence, and I welcome any inquiries concerning my qualifications, ideas, and philosophy. Thank you for your consideration.

Sincerely,



Emmanuel Kostakis

**Emmanuel Kostakis**

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## **CERTIFICATIONS**

New York State Permanent School District Administrator  
New York State Permanent School Administrator/Supervisor  
New York State Permanent Mathematics 7-12

## **EXPERIENCE**

**Independent Educational Consultant, September 2004 – Present.**

**Director of Human Resources, South Orangetown Central School District,  
December 2001 – August 31, 2004.**

**Director of Special Education Committees and Strategic Planning, South Orangetown CSD,  
July 1997 – December 2001.**

**Principal, The South Orangetown Middle School, South Orangetown CSD, July 1993 – June 1997.**

**Director, The Isaac Newton School for Math and Science, Community School District # 4,  
New York City, October 1986 – June 1993.**

**Assistant Director and Co-Founder, The Isaac Newton School for Math and Science, Community  
School District # 4, New York City, September 1981 – October 1986.**

**Science and Math Teacher, Community School District # 5, New York City,  
February 1972 – June 1981.**

**Adjunct Lecturer, The City College of New York, Basic Writing Program,  
September 1974 – February 1975.**

## **EDUCATION**

**Certificate in Contract Administration, School of Industrial and Labor Relations,  
Cornell University, July 2003**

**Advanced Certificate for Administration and Supervision, The City College of New York, May 1984.**

**Master of Arts in Pedagogy, The City College of New York, June 1981. Major: Basic Writing.  
Thesis: Transliteration Errors in English.**

**Bachelor of Science, The City College of New York, February 1972. Majors: Literature and Physics.**

**REFERENCES Available upon request**

# The University of the State of New York

This certificate, valid for service in the public schools, is granted to the person named below who has satisfied the requirements prescribed by the State Education Department.

## The State Education Department Public School Teacher Certificate

**EMMANUEL KOSTAKIS**  
[REDACTED]

Certification area: **SCHOOL DISTRICT ADMINISTRATOR**

\* Form: **PERMANENT**  
Effective date: **09/01/84**

Certificate number: [REDACTED]  
Control number: [REDACTED]

*Vincent C. Gazetta*  
Director, Division of Teacher Education  
and Certification

Given under the authority of the State  
Education Department

*John M. Amodeo*  
Commissioner of Education

(OVER)

University of the  
Education



State of New York  
Department

## Public School Teacher Certificate

This certificate, valid for service in the public schools, is granted to the person named below who has satisfied the requirements prescribed by the State Education Department.

**EMMANUEL KOSTAKIS**

Certification area: **SCHOOL ADMINISTRATOR/SUPERVISOR**

\* Form: **PERMANENT**  
(over)

Effective date: **09/01/96**

Certificate number: [REDACTED]

Control number: [REDACTED]

Given under the authority of  
the State Education Department

*Charles C. Mackey, Jr.*  
Administrator, Teacher Certification

*Richard P. Hill*  
Commissioner of Education

**Emmanuel Kostakis**

12-1-01

### LICENSES AND CERTIFICATIONS

New York State School District Administrator  
New York State School Administrator/Supervisor  
New York City Principal of Junior High School  
New York State Mathematics Certification 7-12

### EXPERIENCE

DIRECTOR OF SPECIAL EDUCATION COMMITTEES, STRATEGIC PLANNING, AND GRANTS, South Orangetown Central School District, July 1997 - Present.

PRINCIPAL, South Orangetown Middle School, July 1993 - June, 1997.

- Implemented a full teaming program for sixth, seventh, and eighth grades.
- Restructured the eighth grade math and science curricula from a multi-tiered, tracked system to a heterogeneous one with the following results:
  - Regents Earth Science enrollment increased 210% over 2 years
  - Sequential 1 math regents enrollment increased 252% over 2 years
  - 100% passing rate for eighth graders in math and science regents
  - Mastery level attained by 85% of students in math, and 48% in science
- Facilitated interdisciplinary units of study for all teams.
- Changed assessment practices to include electronic portfolios.
- Special education inclusion models piloted and implemented in all academic areas.
- Computers integrated in all subjects, focused on multi-media and telecommunications.
- Implemented and formally assessed a study skills program in all curricular areas.
- Initiated the first National Junior Honor Society Chapter, with over 25% participation.
- Established a student recognition program for service, character, and leadership.
- Piloted skillstreaming, a program designed to foster positive values of responsibility, respect, tolerance and appreciation of differences.
- Created outreach programs that allowed students to engage in enrichment activities.

DIRECTOR and CO-FOUNDER, The Isaac Newton School, October 1986 - June 1993.

This "School of Choice" was a magnet program in New York City's CSD#4 that was designed for students who have an interest in math, science or computer technology, and attracted students from all areas of New York City. It was recognized by the Director of Minority Economic Impact of the U.S. Department of Energy as a "School of Excellence," and was considered a successful model program in an inner city neighborhood. The school was designed around a rigorous academic curriculum that set high academic standards. It featured new courses in seventh grade geometry and eighth grade physical science labs. It was a successful model in school-based management, and provided for a broad array of enrichment activities that incorporated many community and business resources including Mt. Sinai Hospital, The Museum of Natural History, The Museum of the City of New York, Manes Environmental Center in Massachusetts, Junior Achievement, Private school placements, New York University, TBTA, and other private corporations.

**Emmanuel Kostakis****EXPERIENCE** (Continued)

**ASSISTANT DIRECTOR**, The Isaac Newton School, NYC, September 1981- Oct. 1986.

**MATHEMATICS TEACHER**, I.S. 201, NYC, Grades 7,8. September 1976 - June 1981.

**SCIENCE and MATH TEACHER**, JHS 120, NYC, Grades 7-9. February 1972 - June 1976.

**ADJUNCT LECTURER**, The City College of New York. September 1974 - February 1975.

**MATH TEACHER**, Malcolm-King Harlem College, Adult Education Program. Spring, 1979.

**EDUCATION**

Advanced Certificate for Administration and Supervision, City College of New York, May 1984.

Master of Arts in Pedagogy, City College of New York, June 1981. Major: Basic Writing ; Thesis: Transliteration Errors in English.

Bachelor of Science, City College of New York, February 1972. Majors: Literature and Physics.

**PROFESSIONAL AFFILIATIONS**

New York State Middle School Association

National Middle School Association

Association for Supervision and Curriculum Development

National Association of Secondary School Principals

Lower Hudson Association for Pupil Personnel Administrators

Council of Administrators of Special Education

Association of Special Education Administrators

**PROFESSIONAL DEVELOPMENT**

"Strategic Thinking and Planning," Dr. Bill Cook, The Cambridge Group, July 1997.

"Eleven Principles of Effective Character Education," Tom Licon, CEP, April, 1997.

"Using Research on Multiple Intelligences and Thinking to Inform Practice for All Students," Dr. Fran Proiman, Professional Development Center, December, 1996.

The Harvard Institute for School Leadership, Harvard Graduate School of Education, Cambridge, MA, July 16 - 28, 1995.

"Supervision and Evaluation in the Context of Strengthening School Culture," by Jon Saphir, Stony Point Conference Center, September - May 1994 .

Various one day conferences and workshops on State Standards, intelligence, learning, discipline, special education, and character education.

**REFERENCES**

Available upon request.

HUMAN RESOURCES

JAN 28 2005

[REDACTED]  
January 24, 2005

Human Resources  
Victory Schools, Inc.  
111 West 57th Street, Suite 525  
New York, NY 10019

Dear Sir or Madame:

I am responding to your advertisement for school administrative opportunities in the Sunday *New York Times*. I am very interested in interviewing for a position.

I have served as a New York City Department of Education assistant principal for three years. I have a masters degree in supervision and administration and I am a New York State licensed district and school supervisor.

In my current capacity as an assistant principal at M.S. 254 in the Bronx, I supervise grades 6-8, the literacy department, afterschool, and teacher professional development. In my first year as an assistant principal I supervised the teachers in the third and fourth grades, summer school, and holiday tutorial programs. Both experiences in elementary and middle school have been wonderful.

Prior to obtaining a school administrator position, I taught English. My permanent certification is grades 7-12.

Thank you for your consideration. I look forward to hearing from you in the near future.

Sincerely,

*Courtney P. Simon*

Courtney P. Simon

## Courtney P. Simon

### EDUCATION:

COLLEGE OF NEW ROCHELLE, New Rochelle, NY

Masters in School Administration and Supervision, December 2001

PACE UNIVERSITY, White Plains, NY

Masters of Science in Teaching English, September 1999

STATE UNIVERSITY OF NEW YORK COLLEGE AT OSWEGO, Oswego, NY

Bachelor of Arts in Broadcasting and Communication Arts, May 1994

### NEW YORK STATE TEACHER'S CERTIFICATION:

Permanent Certification as School District Administrator, December 2003

Permanent Certification in English 7-12, December 2003

Provisional Certification in Supervision and Administration, February 2002

### LEADERSHIP EXPERIENCE:

November 2003 – Present

Assistant Principal (Grades 6-8), Literacy Supervisor,  
Library Supervisor, After School Supervisor, and  
Professional Development Coordinator  
Middle School 254 – Bronx, NY

August 2002 – November 2003

Assistant Principal (Grades 3-8), Testing Coordinator,  
and After School Supervisor, Literacy Supervisor  
(Grades 6-8), Professional Development Coordinator,  
and Summer School Supervisor  
Crotona Park West/C.S. 4 – Bronx, NY

January 2002 – March 2002

Mercy College Cooperating Teacher  
Peekskill High School - Peekskill, NY

September 2001 – December 2001

New Teacher Seminar Coordinator  
Peekskill High School – Peekskill, NY

June - December 2001

African Diaspora Curriculum Committee Leader  
Peekskill City School District – Peekskill, NY

November 2001

National Council of Teachers in English Presenter  
NCTE 91<sup>st</sup> Annual Convention – Baltimore, MD

December 2000 - Present

President of the Virtuous Young Woman Scholarship  
Good Counsel Academy, White Plains, NY

**TEACHING EXPERIENCE:**

**PEEKSKILL HIGH SCHOOL, Peekskill, NY**

English Teacher (Grades 9 -12) September 2000-present

- Incorporated multimedia tools into classroom lessons.
- Collaborated with Oakside Elementary to plan short story writing workshops led by the high school short story class.
- Coordinated school-wide Poetry Cafes.
- Created and designed quarterly English newsletters for parents and students.
- Organized planning meetings with teachers from other disciplines and shared strategies.

**SLEEPY HOLLOW MIDDLE SCHOOL, Tarrytown, NY**

English Teacher/One-Year Leave Replacement (Grades 7-8) September 1999-June 2000

- Developed differentiated lesson plans that challenged students based on level of aptitude
- Created the "Writing Workshop" academic support program for ESL III students
- Participated in primary and secondary source research sponsored by the district for interdisciplinary projects.
- Presented a seminar about studying tips for Sleepy Hollow students in Upward Bound.

**GOOD COUNSEL ACADEMY, White Plains, NY**

English Language Arts/Mathematics Teacher (Grades 6-8) September 1997 - August 1999

- Collaborated with administration on advisement of curriculum revisions and behavior modification strategies.
- Implemented and supervised the 7<sup>th</sup> grade small breakfast business called "Under A Dozen", incorporating New York State Curriculum based on real life math applications and English Language Arts.
- Supervised and developed the high school and middle school math tutorial partnership.
- Planned a parent-student career and etiquette seminar.
- Coordinated field trips to the New York Stock Exchange, Alvin Ailey Repertoire, and the New York Botanical Gardens.

**OTHER PROFESSIONAL EXPERIENCE:**

July - August 2000

Gilder Lehrman New World Slavery Research Fellowship  
Yale University/New Haven, CT

August 1994 - August 1996

Pace Graduate Teaching Assistantship  
Pace University/New York, NY

December 1991 - April 1994

Thirteen/WNET Patron and Publicity Coordinator  
New York, NY

**COMPUTER SKILLS:**

Microsoft Word for Windows, Word Perfect 6.0, PowerPoint, Internet and E-Mail.

**PROFESSIONAL ASSOCIATIONS:**

Association for Supervision & Curriculum Development, CSA/Association of Assistant Principals, and Alpha Kappa Alpha Sorority, Inc.

**INTERESTS:**

Event Planning, Mentoring, and Presenting at Leadership/Educational Conferences.

**REFERENCES:**

Furnished upon request.

**ATTACHMENT #2**

**Request for Change in Grades Served**

**April 28, 2005**

**Merrick Academy –Queens Public Charter School**

**Proposed Staffing  
Plan for 6<sup>th</sup> and 7<sup>th</sup>  
Grades**

## Introduction

*To also address the capacity issues of staff selected for Grades 6 and 7, we have presented a staffing plan that includes the number of teachers, curricular and grade assignments as well as a list of attributes for such staff including, content knowledge, subject matter expertise, successes and experience Merrick Academy will use in hiring such staff.*

### 2005-2006 Class Assignments

Math Teacher:	6-601	6-602	6-603	7-701	7-702
Science Teacher:	6-602	6-603	7-701	7-702	6-601
ELA Teacher:	6-603	7-701	7-702	6-601	6-602
Social Studies Teacher:	7-701	7-702	6-601	6-602	6-603
Spanish Teacher:	7-702	6-601	6-602	6-603	7-701

### Current Class Assignments (04-05)

6-601 Teacher (teaches all core subjects)

6-602 Teacher (teaches all core subjects)

## Recruitment

We are coordinating our recruitment process with Victory Schools' Human Resources Department. We have already advertised and attended the Brooklyn Minority Recruitment Fair on April 9, and the Teachers College recruitment fair at Columbia University on April 16. We have already screened and selected candidates to move forward to the next step, an interview with our selection committee that includes the Board President, the Principal, VSI Regional Director and APs. We believe these candidates possess the exemplary skills and characteristics we are looking for. [See Attributes below.] Obviously, we cannot make any final decision until the appropriate State approvals are secured. It is our sincere hope that all approvals will be secured as soon as possible in order for us to make a commitment to the new teachers and so avoid losing them.

Content Area	Staff Attributes
<p>ELA/Writing</p>	<p>State Certification; Exemplary middle school ELA/Writing teaching experience highlighted/demonstrated by products and examples of student work and expectations that meet and exceed NYS standards; content knowledge and proficiency on a 6 –12 continuum; skill in incorporating technology and media in regular classroom tasks; skill in differentiating curriculum such that levels and learning styles are addressed; demonstrated skill in short and long term learning objectives; understanding of data and application of results to planning and designing content criterion-reference as well as authentic assessments; willingness to participate in ongoing PD</p>
<p>Mathematics</p>	<p>State Certification; Exemplary middle school mathematics teaching experience highlighted/demonstrated by math projects and examples of student work and expectations that meet and exceed NYS standards; content knowledge on a 6 –12 continuum; skill in incorporating technology and media and appropriate manipulatives in regular classroom tasks; skill in differentiating curriculum such that levels and learning styles are addressed; skill in incorporating content area reading &amp; writing; demonstrated skill in short and long term learning objectives; understanding of data and application of results to planning and designing content criterion-reference as well as authentic assessments; willingness to participate in ongoing PD</p>
<p>Science</p>	<p>State Certification; Exemplary middle school science teaching experience highlighted/demonstrated by science projects [including lab presentations &amp; project-based assessments e.g. Science Fairs] and examples of student work and expectations that meet and exceed NYS standards; content knowledge on a 6 – 12 continuum; skill in incorporating content area reading &amp; writing; skill in incorporating technology and media in regular classroom tasks; skill in differentiating curriculum such that levels and learning styles are addressed; demonstrated skill in short and long term learning objectives; understanding of data and application of results to planning and designing content criterion-reference assessments as well as authentic assessments; willingness to participate in ongoing PD</p>

<p><b>Social Studies</b></p>	<p>State Certification; Exemplary middle school social studies teaching experience highlighted/demonstrated by social studies projects that reflect understanding of primary sources, authentic documents as well as examples of student work and expectations that meet and exceed NYS standards; content knowledge on a 6 – 12 continuum and across all SS courses; skill in incorporating content area reading &amp; writing; skill in incorporating technology and media and appropriate research, map, graphing/analysis tools in regular classroom tasks; skill in differentiating curriculum such that levels and learning styles are addressed; demonstrated skill in short and long term learning objectives; understanding of data and application of results to planning and designing content criterion-reference as well as authentic assessments; willingness to participate in ongoing PD</p>
<p><b>Foreign Language/ Spanish</b></p>	<p>State Certification; Exemplary middle school foreign language teaching experience highlighted/demonstrated by student data reflecting language acquisition achievement; content knowledge on a 6 –12 continuum; skill in incorporating content reading &amp; writing in foreign language in relation to ELA; skill in incorporating technology in regular classroom tasks; skill in differentiating curriculum such that levels and learning styles are addressed; demonstrated skill in short and long term learning objectives; understanding of data and application of results to planning and designing content criterion-reference as well as authentic assessments; willingness to participate in ongoing PD</p>

**ATTACHMENT #3**

**Request for Change in Grades Served**

**April 28, 2005**

**Merrick Academy –Queens Public Charter School**

**Proposed  
Professional  
Development  
Framework for 6<sup>th</sup>  
and 7<sup>th</sup> Grades**

## Introduction

***In addition to staffing structures and hiring expectations, we are presenting a more detailed Professional Development Framework linked to consistent and ongoing teacher capacity building and resulting in continuous student achievement improvement and implemented by the newly hired assistant principals, respective Victory Schools, Inc. content instructional specialists.***

### Professional Development Team

The Merrick Academy Middle School Professional Development Team is comprised of:

Ms. Alma Alston, Principal

Mr. Emmanuel Kostakis, MS AP

Ms. Courtney Simon, Lower School Upper Grade AP

*In addition the following professional support will be provided from:*

VSI Content Instructional Specialists – bi-weekly and weekly visits on an as needed basis

VSI Regional Director and/or Instructional & Curriculum Directors

#### □ Role of Assistant Principals

The principal and both assistant principals will be heavily involved in Merrick Academy's professional development program and will work in concert with the VSI staff. Part of the APs regular responsibilities will be to observe, monitor, coach and document procedures and outcomes. This would include:

- becoming the subject area lead on guiding teachers in creating standards-based classrooms and in assuring strict adherence to the Charter;
- monitoring and helping teachers implement effective teaching practices in the context of their appropriate and various NYS content/performance standards and indicators;
- monitoring student work products and defining indicators that reflect growth toward and beyond State standards;
- analyzing student data/outcomes so that they inform practice;
- developing effective assessment techniques;
- designing medial in-house assessment techniques to assist administration and Board members to monitor student progress in the content areas against State standards with a view toward gaining in models of exemplary work

e.g. Quarterly review of writing samples from all content areas and representing all populations [Special education, ESL, gifted, on-grade, and levels 2 & 1];

- coordinate staff development resources provided by Victory Schools, Inc.;
- develop lead teachers in the content areas;
- conduct scheduled bi-weekly staff development meetings focusing on the areas mentioned above;
- plan with the principal for middle level faculty conferences that engage the entire staff in understanding K-8+ expectations and how and why rigorous prerequisite grade work are building blocks for success in the Middle School; and
- select outside resources and partnerships that enrich the curriculum.

## Professional Development Framework

In concert with Victory Schools, Inc. and other VSI middle schools, Merrick Academy is participating in framing a 6-point middle school initiative.

### ❖ Providing one-on-one Content Coaching

During the school year on-site coaching by content instructional specialists will be scheduled, minimally twice a month or on an as needed basis, to support, mentor, and upgrade teachers in the delivery of instruction, in adherence to the Charter application, and in keeping with standards and high level expectations.

### ❖ Conducting Middle Professional Development Retreats

Each summer teachers will be required to attend a two day middle school retreat devoted to middle school education and content area development that leads to *construction of knowledge; disciplined inquiry and value beyond school.* [Newmann, Marks & Gamoran, 1995].

During the school year, and in addition to on-going grade/content conferences, middle school teachers will be required to attend a Saturday middle school retreat once a semester especially devoted to best practices and techniques for differentiating instruction and for engaging and building academic independence among middle school students.

### ❖ Creating Strong Teams of Teachers

In Turning Points 2000, page 122, authors note that, "*Young adolescents derive much of their academic motivation from their sense of supportiveness of others within the school environment...Put simply, students try harder and achieve at a higher level if they feel that their teacher is interested and supportive and that they belong to a group of peers and adults that encourages them to succeed and provides help when it is needed.*"

The focus of this aspect of our Middle School Framework will devote our professional development to:

- building effective planning teams founded on high expectations,
  - fostering collegial relationships around achieving excellence, and
  - building staff capacity and awareness in the unique traits and characteristics of young adolescents that make middle school an exciting place to teach.
- 
- ❖ **Creating Extended Professional Development Opportunities for Teachers**
    - Book Studies and resources re MS/HS Content & Best Practices
    - Special Courses
    - Institute/Conference Attendance
    - University Partnerships/Mentoring
  
  - ❖ **Creating Student Advisory & Leadership Programs in the Middle School**
    - Student Leadership Conferences...
    - Career Guidance
    - College & Higher Education Motivation/Preparation
  
  - ❖ **Creating Forums and Opportunities to develop high level Content Assessments**
    - Provide workshops that enlighten teachers on future assessment expectations and the rigor students are accountable for on such exams as Regents, HS Entrance Exams, PSATs, SATs...
    - Support teachers in developing their own criterion reference measures and authentic assessments with appropriate standards-driven rubrics
    - Develop with teachers the best protocol for reviewing student work and determining progress toward exemplary work

**ATTACHMENT #4**

Request for Change in Grades Served  
April 28, 2005

**Merrick Academy – Queens Public Charter School**

# **Proposed Curricula Grades 6 – 8**

Presented in attachment #4 is the curricula outline for grades 6 – 8. While we are requesting approval for a 7<sup>th</sup> grade at this time, we are planning ahead toward our overall goals. Therefore, our curricula outline includes a program through the 8<sup>th</sup> grade, which we will continue to develop and hope to implement in the future.

## English Language Arts: Balanced Literacy Grades 6 – 8

### **Curriculum Components**

The Academy's Balanced Literacy English Language Arts ("ELA") curriculum will be comprised of the following elements:

1. A two hour block of instruction in ELA for all students
2. McDougal Littell, the use of trade books, and classroom libraries will support comprehension, vocabulary development, fluency and expressiveness by integrating reading and writing in all areas of instruction
3. The Great Source Writing Program will support teachers in the implementation of explicit writing skills and strategies as well as reading and writing workshops
4. New Student pre-assessment using ITBS and/or another screening program.
5. Unit and end-of-year tests, providing both on-going assessment and data regarding end-of-year student performance
6. Word study, word-works, vocabulary building, analogies

### **Curriculum Implementation**

- All students in all grade levels will receive instruction in the Balanced Literacy curriculum each school day. Our approach to balanced literacy enables students to learn comprehension strategies in a variety of settings, using multiple levels of texts and authentic literature. It is a five (5)-stage process focused on whole group explicit instruction, guided practice, application, reflection and on-going assessment. Our comprehensive literacy curriculum model is fully aligned with the NYS Learning Standards and is research-based.
- Sixth grade will continue with Scott Foresman and Grades 7 and 8 will begin with McDougal Littell (Harcourt Brace) The Language of Literature. The Language for Literature Program provides teachers with a hands-on system of guided comprehension strategies for teaching literature, language, writing workshop skills and technology skills. Students are supported to become independent strategic readers using classroom libraries, book clubs and literature circles utilizing classical and contemporary authentic literature.

The model begins with explicit teacher instruction:

- Leveled independent instruction (individual or small group);
  - Texts that are rich in content;
  - Scaffold instruction with levels of support (whole group, small group, individual, assessment to appropriate teaching); and
  - Dynamic on-going assessment (in-class and interim benchmarks)
- Students in need of Title I support will use intervention strategies and will be serviced by the Title I teacher in a push-in model. In addition, teachers will receive training on differentiated instruction to reach at-risk students and those identified as Title I or in need of special education services.
  - Professional development will be provided in the summer as part of the pre-service program. Ongoing professional development will occur throughout the year as determined in a comprehensive professional development plan based on a needs analysis of staff.

- The assistant principal will provide direct support to their colleagues by facilitating grade level meetings, serving as coaches and coordinating special projects/activities.
- Grade level meetings will be held on a weekly basis so that teachers can share best practices and learn new instructional strategies.

## Impact Mathematics: Algebra and More Program – Grades 6 – 8

### **Curriculum Components**

The Impact Mathematics: Algebra and More curriculum is consistent with NCLB, aligned with the State learning standards and assessments, and provides significant opportunities for enrichment and experiential learning. This curriculum respects the background and knowledge of middle school (6 – 8) teachers, recognizes the competence and energy of middle school age students and addresses the needs for intellectually challenging and inclusive mathematics materials. With Impact Mathematics, they have combined the best of what is known as “reform” curricula with the best of “traditional” curricula, incorporating more active involvement on the part of students in making sense of important mathematical ideas. Key components of the program include:

1. A comprehensive curriculum for grade 6 through 8 that completes a full year of algebra by the end of grade 8
2. The algebra strand is based on the highly successful Australian program “Access to Algebra”
3. The strands created for Impact Mathematics follow the Access to Algebra strands in style: use of narrative and realistic contexts, personalization in the form of cartoons in which middle grade students explain how they approach problems and opportunities for students to choose or create their own problems
4. Conceptual understanding and basic skills go hand in hand to support each other in this curriculum
5. Impact mathematics provides plenty of opportunities for practice with both variety and contrast to keep students’ attention focused
6. Manipulatives and calculators are used to support the content learning but it is critical that students develop good number sense and calculation skills before they work extensively with calculators
7. The curriculum provides a variety of projects and uses applications to help develop particular mathematical concepts in context
8. Assessment components for unit, mid-year and end-year tests provide ongoing assessment and data on cumulative year student performance

### **Curriculum Implementation**

- Students will receive one hour and thirty minutes of instruction in Impact Mathematics each school day.
- The assistant principal will build capacity at the school level. Mathematics teachers will receive additional training throughout the year and coaching in their own classrooms. The assistant principal will provide direct support to their colleagues by facilitating grade level meetings, serving as coaches and coordinating special projects/activities.

- All instructional staff will receive mathematics training in August. Additional professional development days during the school year will focus on instructional strategies. Grade level meetings will be held on a weekly basis so that teachers can share best practices and learn new strategies.
- Students identified for Title I or Special Education services will receive instruction using support materials provided within the program.
- A professional development plan will be aligned to teacher specific needs as identified by a needs assessment survey.

## Science – Grades 6 – 8

### **Curriculum Components**

The science curriculum is a research-based approach to science instruction. The science program, which is composed of units in three areas of science—Life Science, Earth Science, and Physical Science—is aligned to the New York State Standards. The students will participate in a wide variety of experiments and hands-on lab activities exploring the methods of science required under the New York State Learning Standards. Students will be able to interpret data, predict outcomes and communicate their findings. Students will also conduct scientific inquiries and apply scientific concepts, principals and themes pertaining to each unit.

The Glencoe/McGraw Hill Science textbook provides a complete and comprehensive standards-based approach to science, featuring exclusive National Geographic visual formats that help students master complex scientific concepts. Features from Time Magazine provide additional practice in primary source reading.

### **Curriculum Implementation**

- Students will receive a minimum of 45 minutes of instruction in science each school day.
- The identified assistant principal will build capacity at the school level in science. Science teachers will receive additional training throughout the year and coaching in their own classrooms. The assistant principal will provide direct support to teachers by facilitating grade level meetings and coordinating special projects/activities.
- All instructional staff will receive science training in August. Additional professional development days during the school year will focus on instructional strategies. Grade level meetings will be held on a weekly basis so that teachers can share best practices and learn new strategies.
- A professional development plan will be aligned to teacher specific needs as identified by a needs assessment survey.

## Social Studies – Grades 6 – 8

### **Curriculum Components**

Core Knowledge topics, as specified within the Core Knowledge the Scope and Sequence developed by Dr. E.D. Hirsch, have already been aligned with the New York State Social Studies Standards. This rich and challenging combination uses authentic literature to present history from multiple perspectives and uses various genres, integrating reading, expository writing, research and hands on activities. Students examine primary sources and answer as well as create Document-Based Questions. In addition, Scott Foresman has been adopted for grade 6 and Prentice Hall – The American Nation for grades 7 and 8. Both series cover the Eight Strands of Social Studies. Both are aligned with the State Standards, support our philosophy of curriculum integration, reading in the content area, on-going assessment, and continuous progress towards standard mastery. The imbedded activities mirror the State assessments.

### **Curriculum Implementation**

- Students will receive a minimum of 45 minutes of instruction in social studies each school day.
- The assistant principal will be identified in social studies to build capacity at the school level. Social studies teachers will receive training throughout the year and coaching in their own classrooms. The assistant principal will provide direct support to teachers by facilitating grade level meetings and coordinating special projects/activities.
- All instructional staff will receive social studies training in August. Additional professional development days during the school year will focus on instructional strategies. Grade level meetings will be held on a weekly basis so that teachers can share best practices and learn new strategies.
- A professional development plan will be aligned to teacher specific needs as identified by a needs assessment survey.

## Assessment Components

### ***The Academy's Assessment process will be comprehensive and rigorous***

The Academy's rigorous assessment process will be strengthened significantly by the addition of several new strategies. Merrick will continue to use the Iowa Test of Basic Skills and the required state exams for ELA, mathematics, social studies and science. Students also will continue to take the New York City ELA and Math tests. Built in assessment components are included for grades 6 – 8 in the Impact Mathematics curriculum. For ELA in grades 6 – 8, teacher-made assessments will be utilized. The data assessments will be used as part of the program design to inform instruction and support student learning throughout the school year. In addition, the Academy will use the Glencoe Science Program for grades 6 – 8. This program contains unit tests and a comprehensive test at the end of the year.

Similarly, the assessment materials developed from Prentice Hall for grades 6 – 8 will be used to assess student progress. We believe that this more direct link of assessment to instruction will provide teachers with valuable information to guide instruction and learning. More specific information regarding student assessment is detailed in the next section.

### **English Language Arts Assessments – Grades 6 – 8**

- The Language of Literature provides materials that customize formal, informal and alternative assessment. The assessments integrate all of the language arts processes and are modeled on the authentic assessment materials that mirror state assessments. They include pre-reading activities, in-depth writing rubrics, short constructed response and literature response. These tests are administered upon completion of each unit. Integrated assessment using reading, writing, speaking and listening activities are administered periodically.
- Unit and End-of-Year Skills Tests measure students' ability to apply unit skills in a standardized test format
- New York State and New York City ELA assessments

### **Math Assessments – Grades 6 – 8**

- Free-response chapter tests that cover every objective in the student text chapter.
- Multiple-choice tests for each chapter
- Alternative chapter assessments (Performance Assessment) comprised of open-ended questions. Each test is accompanied by its own Evaluation (diagnostic) Guide.
- Mixed-response chapter tests that include a short performance task.
- Item Analysis Management Forms that teachers can use to evaluate student comprehension of each chapter objective.
- End-of-year cumulative tests
- Student-complete forms, including math log (journals), student surveys, self-evaluations and portfolio guides.
- New York State and New York City math assessments

### **Science Assessments – Grades 6 – 8**

- Performance-based tests
- Unit Performance assessments
- End-of-Year cumulative tests
- New York State science assessment

### **Social Studies Assessments – Grades 6 – 8**

- Performance-based tests and/or projects
- Document-based Assessments
- Unit performance Assessments (including end-unit standardized test-prep)
- Semester and End-of-Year benchmark and cumulative tests
- New York State social studies assessment

## **Assessment Implementation**

- An annual assessment calendar for each content area will be prepared and included in the school calendar
- Assessments will be given and recorded into an assessment-tracking system
- Teachers will review assessment results on a regular basis to inform instruction
- Teachers will meet with the assistant principal every six weeks to assess overall student performance
- A plan of action will be developed to address problems identified during assessment reviews

**ATTACHMENT #5**

**Request for Change in Grades Served**

**April 28, 2005**

**Merrick Academy – Queens Public Charter School**

# **Revised 5-Year Budget**

# Merrick Academy

## Financial Plan

BudgetFy06Merrick.xls

(Years Ending June 30)	Budget 2006E	2007E	2008E	2009E	2010E
<b>STUDENTS</b>	<b>500</b>	<b>525</b>	<b>525</b>	<b>525</b>	<b>525</b>
<b>REVENUES</b>					
Base Per Pupil Revenues	4,405,740	4,762,469	4,905,343	5,052,503	5,204,078
State Funding	37,966	39,845	39,845	39,845	39,845
Federal Funding	259,933	280,979	289,409	298,091	307,034
Special Education Funding	48,739	53,416	55,018	56,669	58,369
Grants/Contributions	33,633	25,341	16,436	16,929	17,437
Food Service	130,347	140,901	145,128	149,482	153,966
Interest Income	3,955	4,275	4,403	4,536	4,672
Other Income	(28,578)	(30,892)	(31,819)	(32,774)	(33,757)
<b>TOTAL REVENUES</b>	<b>4,891,734</b>	<b>5,276,333</b>	<b>5,423,762</b>	<b>5,585,279</b>	<b>5,751,642</b>
<b>EXPENSES</b>					
<b>Personnel</b>					
Employee Salaries	2,079,988	2,180,259	2,245,667	2,330,367	2,418,128
Payroll Taxes	169,961	178,154	183,499	190,420	197,591
Employee Benefits	201,303	217,981	234,888	253,894	274,628
<i>Subtotal Personnel</i>	<i>2,451,252</i>	<i>2,576,394</i>	<i>2,664,054</i>	<i>2,774,681</i>	<i>2,890,347</i>
<b>Non-Personnel</b>					
General & Administrative	68,216	73,511	75,488	77,523	79,620
Professional Services	105,437	113,671	121,265	129,504	138,452
Direct Educational	204,450	216,704	197,614	189,700	194,425
Operating & Maintenance	1,040,629	1,082,567	1,103,628	1,125,651	1,147,588
School Administration Services	1,026,261	1,109,357	1,142,637	1,176,917	1,212,224
<i>Subtotal Non-Personnel</i>	<i>2,444,994</i>	<i>2,595,810</i>	<i>2,640,631</i>	<i>2,699,296</i>	<i>2,772,289</i>
<b>TOTAL EXPENSES</b>	<b>4,896,245</b>	<b>5,172,204</b>	<b>5,304,685</b>	<b>5,473,977</b>	<b>5,662,636</b>
<b>NET SURPLUS/DEFICIT</b>	<b>(4,512)</b>	<b>104,129</b>	<b>119,077</b>	<b>111,302</b>	<b>89,006</b>
<b>CASH FLOW ADJUSTMENTS</b>					
Operating Activities	139,539	145,167	138,183	161,310	173,500
Investing Activities	(60,000)	(57,429)	(41,402)	(54,554)	(55,741)
Financing Activities	(79,539)	(87,738)	(96,781)	(106,756)	(117,759)
<b>NET CASH FLOW</b>	<b>-</b>	<b>0</b>	<b>-</b>	<b>-</b>	<b>-</b>

# Merrick Academy

## Revenues

BudgetFy08Merrtck.xls

(Years Ending June 30)	Budget 2006E	2007E	2008E	2009E	2010E
<b>5000 - Base Per Pupil Revenues</b>	<b>4,405,740</b>	<b>4,762,469</b>	<b>4,905,343</b>	<b>5,052,503</b>	<b>5,204,078</b>
<b>5100 - State Funding</b>					
5110 - NYSTL - Textbooks	27,791	29,166	29,166	29,166	29,166
5112 - NYSTL - Library	2,910	3,054	3,054	3,054	3,054
5113 - NYSTL - Software	7,265	7,625	7,625	7,625	7,625
Subtotal State Funding	37,966	39,845	39,845	39,845	39,845
<b>5200 - Federal Funding</b>					
5210 - Title I	200,288	216,505	223,000	229,690	236,581
5220 - Title IIA - Prof. Dev.	47,466	51,309	52,848	54,434	56,067
5225 - Title IID - Technology	5,016	5,422	5,584	5,752	5,924
5230 - Title IV - Drug Free Schools	4,252	4,597	4,735	4,877	5,023
5235 - Title V - Innovative Programs	2,911	3,147	3,242	3,339	3,439
5240 - Title VI - Innovative Ed Progs.	-	-	-	-	-
5250 - Title VI - Class Size Reduction	-	-	-	-	-
Subtotal Federal Funding	259,933	280,979	289,409	298,091	307,034
<b>5300 - Special Education Funding</b>					
60 - 100% of day in SPED	-	-	-	-	-
20 - 59%	7,488	8,094	8,337	8,587	8,844
0 - 20%	-	-	-	-	-
5310 - State Aid - Pupils w. Disabilities	7,488	8,094	8,337	8,587	8,844
5320 - Federal Aid - Pupils w. Disabilities	41,252	45,322	46,681	48,082	49,524
Subtotal SPED	48,739	53,416	55,018	56,669	58,369
<b>5400 - Grants/Contributions</b>					
5410 - City/Local Grants	18,768	9,384	-	-	-
5420 - State Grants	-	-	-	-	-
5430 - Federal Grants	-	-	-	-	-
5440 - E-rate	14,865	15,957	16,436	16,929	17,437
5450 - Private Funds/Contributions	-	-	-	-	-
Subtotal Grants/Contributions	33,633	25,341	16,436	16,929	17,437
<b>5500 - Food Service</b>					
5510 - Government Subsidies	124,400	134,472	138,506	142,661	146,941
5520 - Student Payments	5,947	6,429	6,622	6,820	7,025
Subtotal Food Service	130,347	140,901	145,128	149,482	153,966
<b>5550 - Interest Income</b>	<b>3,955</b>	<b>4,275</b>	<b>4,403</b>	<b>4,536</b>	<b>4,672</b>
<b>5600 - Other Income</b>	<b>(28,578)</b>	<b>(30,892)</b>	<b>(31,819)</b>	<b>(32,774)</b>	<b>(33,757)</b>
<b>Total School Revenues</b>	<b>4,891,734</b>	<b>5,276,333</b>	<b>5,423,762</b>	<b>5,585,279</b>	<b>5,751,642</b>

**NOTES:**

1) Assumes e-rate funding for 80% of all internet and phone service costs.

# Merrick Academy

## Personnel

BudgetFy06Merrick.xls

(Years Ending June 30)	Budget 2006E	2007E	2008E	2009E	2010E
<b>6000 Employee Salaries</b>					
6010 Administration	424,606	459,219	472,996	487,186	501,801
6020 Teacher Salaries	1,006,918	1,084,298	1,116,827	1,150,332	1,184,842
6030 Special Educator Salaries	165,055	170,007	175,107	180,360	185,771
6035 Pupil Services Salaries	65,817	67,792	69,825	71,920	74,078
6040 Teachers Assistants Salaries	211,889	186,710	192,312	214,809	238,483
6050 Specialist Teachers	88,387	91,038	93,770	96,583	99,480
6060 Summer-School Staff	-	-	-	-	-
6065 After-school Staff	15,000	15,450	15,914	16,391	16,883
6080 Substitute Teachers	18,000	19,467	20,051	20,653	21,272
6090 Operational Support Staff	49,316	50,796	52,320	53,889	55,506
6200 Employee Bonuses	20,000	20,276	20,884	21,855	22,865
6299 Other Salaries	15,000	15,207	15,663	16,391	17,149
<i>Subtotal Employee Salaries</i>	<u>2,079,988</u>	<u>2,180,259</u>	<u>2,245,667</u>	<u>2,330,367</u>	<u>2,418,128</u>
<b>6300 Payroll Taxes</b>	169,961	178,154	183,499	190,420	197,591
<b>6400 Employee Benefits</b>					
6410 Health/Dental	134,642	148,106	162,917	179,209	197,130
6420 401(k) Contribution	34,723	36,397	37,489	38,903	40,368
6430 Workers Comp	20,441	21,426	22,069	22,901	23,764
6440 Disability/Life Insurance	11,497	12,052	12,413	12,881	13,367
<i>Subtotal Employee Benefits</i>	<u>201,303</u>	<u>217,981</u>	<u>234,888</u>	<u>253,894</u>	<u>274,628</u>
<b>TOTAL</b>	<u>2,451,252</u>	<u>2,576,394</u>	<u>2,664,054</u>	<u>2,774,881</u>	<u>2,890,347</u>

**NOTES:**

1) After-school staff (6065) to fund Saturday Academy program.

# Merrick Academy

## Non-Personnel

BudgetFy06Merrick.xls

(Years Ending June 30)	Budget 2006E	2007E	2008E	2009E	2010E
<b>7000 General &amp; Administrative</b>					
7110 Office Supplies	20,992	22,691	23,372	24,073	24,795
7120 Postage	3,023	3,268	3,366	3,467	3,571
7130 Printing / Copying	210	227	234	241	248
7140 Advertising	1,108	1,198	1,234	1,271	1,309
7160 Equipment	4,708	5,089	5,242	5,399	5,561
7170 Equipment Maintenance/Repairs	10,522	11,374	11,715	12,066	12,428
7175 Computer Maintenance/Support	16,996	18,372	18,923	19,491	20,076
7180 Software	7,265	7,625	7,625	7,625	7,625
7190 Other G&A	3,392	3,667	3,777	3,890	4,007
<i>Subtotal G&amp;A</i>	<u>68,216</u>	<u>73,511</u>	<u>75,488</u>	<u>77,523</u>	<u>79,620</u>
<b>7200 Professional Services</b>					
7210 Accounting and Audit	24,720	25,462	26,225	27,012	27,823
7220 Administrative Fees	8,664	8,924	9,192	9,468	9,752
7230 Legal	6,695	6,896	7,103	7,316	7,535
7240 Board Expenses	2,060	2,122	2,185	2,251	2,319
7250 Insurance	53,581	59,764	65,741	72,315	79,546
7260 Temporary Staff	-	-	-	-	-
7299 Other Prof. Services	9,717	10,503	10,818	11,143	11,477
<i>Subtotal Prof. Services</i>	<u>105,437</u>	<u>113,671</u>	<u>121,265</u>	<u>129,504</u>	<u>138,452</u>
<b>8000 Direct Educational Expenses</b>					
8100 Texts and Materials	83,683	87,319	65,313	54,398	56,030
8105 NYSTL Texts and Materials	30,701	32,220	32,220	32,220	32,220
8110 Teacher Discretionary Fund	7,650	8,189	8,434	8,687	8,948
8120 Classroom Supplies	3,265	3,529	3,635	3,744	3,856
8200 Professional Development	18,644	20,076	20,678	21,299	21,938
8210 Tuition Reimbursement Fund	5,969	6,390	6,581	6,779	6,982
8300 Contracted Special Ed. Services	1,000	1,099	1,132	1,166	1,201
8305 Contracted Substitute Services	10,400	11,248	11,585	11,933	12,291
8400 Field Trips	13,118	14,180	14,605	15,043	15,495
8410 Student Testing	3,974	4,296	4,425	4,558	4,694
8420 Subscriptions & Dues	5,467	5,909	6,087	6,269	6,457
8430 Student Uniforms	12,100	13,080	13,472	13,877	14,293
8999 Other Direct Educational	8,480	9,171	9,446	9,729	10,021
<i>Subtotal Direct Educational</i>	<u>204,450</u>	<u>216,704</u>	<u>197,614</u>	<u>189,700</u>	<u>194,425</u>

**Merrick Academy**  
**Non-Personnel (Cont.)**

(Years Ending June 30)	Budget 2006E	2007E	2008E	2009E	2010E
<b>9000 Operating &amp; Maintenance</b>					
9010 Rent/Lease Payments	410,970	423,299	435,998	449,078	462,550
9030 Renovations & Repairs	6,782	7,331	7,551	7,777	8,010
9040 Fixtures & Furnishings	9,036	9,768	10,061	10,363	10,674
9060 Real Estate Taxes	36,050	37,132	38,245	39,393	40,575
9070 Operational Supplies	9,179	9,922	10,219	10,526	10,842
9080 Maintenance & Security	90,000	97,287	100,206	103,212	106,308
9090 Transportation Service	1,000	1,081	1,113	1,147	1,181
9095 Transportation - Staff	1,500	1,621	1,670	1,720	1,772
9100 Food Service	154,447	166,952	171,961	177,119	182,433
9105 Other Food Payments	3,804	4,111	4,235	4,362	4,493
9110 Utilities	73,702	79,670	82,080	84,522	87,058
9115 Internet Service	2,732	2,814	2,898	2,985	3,074
9120 Phone Service	15,849	17,133	17,647	18,176	18,721
9300 Depreciation	152,715	157,493	160,937	165,475	170,112
9400 Interest Expense	44,597	36,399	27,356	17,381	6,377
9499 Other O&M	28,266	30,555	31,472	32,416	33,388
<i>Subtotal O&amp;M</i>	<u>1,040,629</u>	<u>1,082,567</u>	<u>1,103,628</u>	<u>1,125,651</u>	<u>1,147,568</u>
<b>9500 School Admin. Services</b>					
9510 School Mgmt. Fee (VSI)	1,026,261	1,109,357	1,142,637	1,176,917	1,212,224
9520 Central Services Fee (VSI)	-	-	-	-	-
<i>Subtotal School Admin Svcs</i>	<u>1,026,261</u>	<u>1,109,357</u>	<u>1,142,637</u>	<u>1,176,917</u>	<u>1,212,224</u>
<b>TOTAL</b>	<u>2,444,994</u>	<u>2,595,810</u>	<u>2,640,631</u>	<u>2,699,296</u>	<u>2,772,289</u>

NOTES:

**Merrick Academy**  
Cash Flow

BudgetFy06Merrick.xls

<i>(Years Ending June 30)</i>	Budget 2006E	2007E	2008E	2009E	2010E
<b>OPERATING ACTIVITIES</b>					
Net Surplus/Deficit	(4,512)	104,129	119,077	111,302	89,006
Depreciation	152,715	157,493	160,937	165,475	170,112
<b>Other Changes in Assets</b>					
Accounts Receivable & Other Receivables	-	-	-	-	-
1250 - Accrued Revenue	-	-	-	-	-
Prepaid Expenses	-	-	-	-	-
Security Deposit	-	-	-	-	-
Other Assets	-	-	-	-	-
<b>Changes in Net Liabilities</b>					
2000 - Accounts Payable	-	-	-	-	-
2020 - Unearned Income	-	-	-	-	-
Accrued Expenses	-	-	-	-	-
2001 - Deferred Victory Management Fees	(27,588)	(127,366)	(147,173)	(120,970)	(91,286)
Other Liabilities	18,923	10,912	5,342	5,503	5,668
<b>TOTAL</b>	<b>139,539</b>	<b>145,167</b>	<b>138,183</b>	<b>161,310</b>	<b>173,500</b>
<b>INVESTING ACTIVITIES</b>					
1510 - Furniture & Fixtures	(15,000)	(10,000)	(5,000)	(5,150)	(5,305)
1515 - Office Equipment	(15,000)	(15,000)	(3,000)	(15,000)	(15,000)
1520 - Computer Equipment	(15,000)	(16,215)	(16,701)	(17,202)	(17,718)
1600 - Leasehold Improvements	(15,000)	(16,215)	(16,701)	(17,202)	(17,718)
Other Investing Activities	-	-	-	-	-
<b>TOTAL</b>	<b>(60,000)</b>	<b>(57,429)</b>	<b>(41,402)</b>	<b>(54,554)</b>	<b>(55,741)</b>
<b>FINANCING ACTIVITIES</b>					
Repayment of Operating Loans	-	-	-	-	-
2300 - Payments on Secured Loan (also 2215)	(79,539)	(87,738)	(96,781)	(106,756)	(117,759)
<b>TOTAL</b>	<b>(79,539)</b>	<b>(87,738)</b>	<b>(96,781)</b>	<b>(106,756)</b>	<b>(117,759)</b>
<b>BEGINNING CASH</b>	<b>76,818</b>	<b>76,818</b>	<b>76,818</b>	<b>76,818</b>	<b>76,818</b>
Net Cash Increase/Decrease	(0)	0	(0)	0	(0)
<b>ENDING CASH</b>	<b>76,818</b>	<b>76,818</b>	<b>76,818</b>	<b>76,818</b>	<b>76,818</b>

**Notes:**

# Merrick Academy

## Balance Sheet

BudgetFy06Merrick.xls

(As of June 30)	Proj. 2006E	2007E	2008E	2009E	2010E
<b>ASSETS</b>					
Cash (Checking/Saving)	76,818	76,818	76,818	76,818	76,818
Accounts Receivable & Other Receivables	89,330	89,330	89,330	89,330	89,330
Other Current Assets	171,342	171,342	171,342	171,342	171,342
<u>Fixed Assets</u>					
Fixed Assets	1,835,795	1,893,224	1,934,626	1,989,180	2,044,921
Accumulated Depreciation	(594,827)	(752,320)	(913,257)	(1,078,732)	(1,248,844)
Net Fixed Assets	1,240,968	1,140,904	1,021,369	910,448	796,077
Other Assets	26,246	26,246	26,246	26,246	26,246
<b>TOTAL ASSETS</b>	<b>1,604,704</b>	<b>1,504,641</b>	<b>1,385,106</b>	<b>1,274,185</b>	<b>1,159,813</b>
<b>LIABILITIES &amp; EQUITY</b>					
<u>Liabilities</u>					
Accounts Payable	116,762	116,762	116,762	116,762	116,762
Deferred Victory Fees Payable	926,589	799,223	652,050	531,080	439,794
Operating Loans	3,629	3,629	3,629	3,629	3,629
Facility Loan	409,033	321,296	224,515	117,759	(1)
Other Liabilities	336,097	347,009	352,351	357,854	363,521
<u>Equity</u>					
Fund Balance	(187,407)	(83,278)	35,799	147,101	236,107
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>1,604,704</b>	<b>1,504,640</b>	<b>1,385,105</b>	<b>1,274,184</b>	<b>1,159,813</b>

**ATTACHMENT #6**

Request for Change in Grades Served  
April 28, 2005

**Merrick Academy – Queens Public Charter School**

# **Second Charter Management Agreement**

**SECOND CHARTER SCHOOL MANAGEMENT AGREEMENT**

This Second Charter School Management Agreement (this "Agreement") is made as of the 5 day of April, 2004 between Victory Schools, Inc., a Delaware corporation ("VSI"), and Merrick Academy – Queens Public Charter School, an education corporation established to operate an independent and autonomous public school under the New York Charter Schools Act of 1998 (the "Charter School").

**PRELIMINARY STATEMENT**

WHEREAS, the Charter School was the grantee of a charter (the "Charter") in 2000 from the Board of Trustees of the State University of New York (the "SUNY Trustees") pursuant to the New York Charter Schools Act of 1998 (as such provisions may be amended and in effect from time to time, the "Act") to establish and operate as a charter school for a term of five years;

WHEREAS, VSI is in the business of providing educational management and operational services to charter schools;

WHEREAS, the Charter School's Board of Trustees (the "Board"), which has final authority for policy and operational decisions of the Charter School, delegated certain management and operational authority over the Charter School to VSI pursuant to an amended and restated charter school management agreement, dated as of April 5, 2001;

WHEREAS, based upon the success of the Charter School during the term of its Charter, the SUNY Trustees may renew the Charter for an additional term to be specified on a date subsequent hereto. If renewed by the SUNY Trustees and approved or deemed approved by the Board of Regents of the New York State Education Department (the "Board of Regents"), then the Charter shall be known as the first renewal charter (the "First Renewal Charter"). Upon its effective date, the First Renewal Charter shall supersede and replace the Charter; and

WHEREAS, for and during the term of the First Renewal Charter the Board desires that VSI continue to undertake responsibility for certain aspects of the management and operation of the Charter School, and continue to provide certain educational services to the Charter School, as set forth in this Agreement;

NOW, THEREFORE, in consideration of the foregoing, the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. **General Requirements.** For and during the term of this Agreement, the Charter School shall delegate, and VSI shall manage and operate the Charter School in accordance with the terms set forth herein and consistent with the mission, education philosophy, school design, governance structure and other items (as may be amended from time to time, the "Key Design Elements") set forth in the First Renewal Charter, which, upon its execution, shall be attached to this Agreement for reference. The Charter School and each member of the Board and Charter School staff will actively support VSI in accomplishing the Key Design Elements, including,

without limitation, maintaining full enrollment, maintaining community support, preventing operating deficits and achieving the academic and financial plans set forth in the First Renewal Charter (including student academic outcomes), this Agreement and all other agreements, documents and plans the Charter School may be subject or a party to. VSI, the Charter School and the Board believe that educational services can be most effectively delivered in a competitive, free-market environment. The Board, parents and others involved with the Charter School recognize that it is appropriate for VSI to earn a profit for its educational management and operational services, and is consistent with attaining the Charter School's stated educational objectives.

**2. The Role of VSI.** The role of VSI under this Agreement is to provide certain educational management and operational services for the Charter School and the Board, as more specifically delineated in Section 4 of this Agreement.

**3. The Role of the Board.** The role of the Board is to govern the Charter School and to set broad policy for the management, operation and educational process at the Charter School consistent with the First Renewal Charter, this Agreement and all applicable laws, including:

- (a) To set broad policy for the Charter School, consistent with the First Renewal Charter and this Agreement;
- (b) To conduct board meetings and to take all board actions and activities in conformity with all applicable laws;
- (c) To create, maintain and adhere to board bylaws, a code of ethics and other board policies, and encourage active board member participation in the operation of the Charter School and in board functions, including committee assignments, if any, and the drafting of board minutes and records;
- (d) To establish and lead fund raising and development activities, including, without limitation, the obtainment of public and private grants, donations and other charitable contributions, for the Charter School;
- (e) To work closely and in good faith with VSI during the term of this Agreement with respect to any responsibility to which the Board has delegated authority to VSI hereunder and on all other matters relating to the Charter School;
- (f) To receive, review and provide comment, as applicable, to VSI's reports; to immediately forward to VSI any correspondence relating to the Charter School in its possession; and to timely respond to requests for information from VSI;
- (g) To approve an annual budget in accordance with Section 4.4 and to seek to prevent operating deficits;
- (h) To represent the Charter School to the local community;

- (i) To establish a procedure for the receipt and timely review of any complaints or grievances; and
- (j) To establish, monitor and manage the Charter School's parents association and any other group, club or association affiliated with the Charter School, subject to applicable laws, rules and regulations.

**4. Services of VSI.** In order to assist the Charter School in carrying out the terms of the First Renewal Charter, VSI agrees to provide the educational management and operational services set forth under this Section 4, and in connection therewith, shall have the right to direct the following duties, in consultation and communication with the Board and/or the Charter School administration on key matters:

**4.1 Education and Instruction-Related Services.** VSI shall provide the following education and instruction-related services to and on behalf of the Charter School, all of which shall be researched-based and rooted in sound educational philosophy:

- (a) designing the educational programs and programs of instruction including rules and requirements relating to student admissions, bilingual education, student records, access to equal educational opportunities, school year and school day requirements, special education, student testing, extra-curricular and co-curricular activities and programs;
- (b) selecting and acquiring instructional and curricular materials, equipment and supplies, which may be acquired from affiliated or unaffiliated entities; provided, however, that if such materials, equipment and supplies are acquired from persons or entities affiliated with VSI, the prices paid for such items shall be reasonable and fair to the Charter School in light of the nature of the items purchased and in all cases such materials, equipment and supplies shall be and remain property of the Charter School, subject to any superceding liens or encumbrances; and
- (c) designing, implementing and monitoring professional development activities for the Charter School's instructional personnel.

**4.2 Management and Operation Services.** VSI shall provide the following management and operation services to and on behalf of the Charter School:

- (a) generally managing the business administration of the Charter School, including the preparation and maintenance of operating procedures of the Charter School;
- (b) managing personnel and payroll functions of the Charter School for employees of the Charter School, as more specifically described in Section 4.5 below;

- (c) contracting with public or private entities or individuals for the provision of services required by the Charter School, which shall include but not necessarily be limited to, transportation, technology, auditing, custodial and food services, and which services shall be paid for in accordance with the appropriate line items in the Charter School's budget;
- (d) evaluating and identifying the Charter School's facilities including making any improvements thereto as VSI shall deem necessary or appropriate for the attainment of the Charter School's educational objectives;
- (e) managing the purchasing or leasing of materials, supplies, and equipment for use at the Charter School, provided that the items shall be and remain the property of the Charter School; provided further that in the event the Charter School intends to enter into a lease agreement with VSI, then such an agreement shall be separately documented and not be made a part of or incorporated into this Agreement and such lease agreement shall be separately negotiated by independent counsel representing the Charter School;
- (f) contracting on behalf of the Charter School for the provision of any other services or the acquisition of any other property, which VSI reasonably deems necessary to the attainment of the educational goals of the Charter School;
- (g) designing and implementing the Charter School's student recruitment and enrollment procedures; and
- (h) Periodically providing students, parents, faculty members and other Charter School stakeholders with written school information or materials, provided that in all cases such communication must be prior-approved by the Board or principal, as applicable.

**4.3 Human Resources and Employment-Related Services.** VSI shall provide for the selection, training and management of the educational and administrative staff of the Charter School, including, without limitation, defining staff needs; recommending the hiring and firing of staff, as may be required, from time to time (after approval from the Board in the case of the principal and in consultation with the Charter School administration in the case of all other staff personnel); setting compensation levels (subject to the requirements of applicable laws or regulations); directing the development and training of staff (in cooperation and consultation with the Charter School administration); establishing procedures for hiring substitute staff so that the Charter School is adequately staffed at all times; establishing personnel policies; and establishing employment related administrative procedures, if any. The parties acknowledge and agree that, in accordance with the Act, the principal, teachers, administrative and other staff of the Charter School shall be employees of the Charter School and not of VSI.

**4.4 Budgeting and Financial Reporting Services.** Prior to the beginning of each fiscal year, VSI shall prepare and submit to the Board for its review a proposed annual budget for such fiscal year. Not more than thirty (30) days after its receipt of the proposed annual budget, the Board shall notify VSI of any proposed amendments or revisions to the proposed budget; provided that in no event shall the Board propose to amend or revise allocations in the proposed budget that would prohibit the Charter School from fully compensating VSI for the educational management and operations services performed under this Agreement in accordance with Section 6 hereof. Upon receipt of any such proposed amendments or revisions, or upon expiration of such thirty (30) day period if no proposed amendments or revisions are received, VSI shall prepare a final annual budget for such fiscal year and provide a copy thereof to the Board for its approval. Such final annual budget, to the extent that VSI in its reasonable discretion considers it financially prudent and in the educational interests of the Charter School students to do so, shall incorporate any amendments and revisions proposed by the Board. VSI shall discuss with the Board or its designee any amendments or revisions proposed by the Board that VSI does not reasonably consider prudent to incorporate. VSI and the Board or its designee shall come to agreement on the resolution of any such proposed amendments or revisions prior to offering a final budget to the Board for its approval.

The Board will not mandate budget amendments or revisions that are inconsistent with the First Renewal Charter or that would potentially create or increase a debt or other financial obligation owed to, or payable by VSI, without the consent of VSI.

VSI shall also provide other budgets, financial reports and financial statements to the Board as may be required by the First Renewal Charter or applicable law and regulations, including:

- (a) Within 60 days after the close of each fiscal quarter, unaudited financial statements of the Charter School for the fiscal quarter most recently ended;
- (b) From time to time upon the request of the Board, but no less frequent than on a quarterly basis, a financial statement that provides a detail of budget to actual revenues and expenditures, with an explanation of variances;

VSI shall also cooperate with the auditors retained by the Board to prepare annual audited financial statements of the Charter School. VSI shall coordinate its work and the work of the auditors so as to allow for the delivery of such audited statements within 120 days after the close of each fiscal year.

**4.5 Procurement of Insurance.** VSI shall procure and maintain for itself and separately, on behalf of the Charter School, insurance policies covering commercial liability, worker's compensation, directors and officers liability coverage, and any other insurance required by applicable law or by any agreement to which VSI or the Charter School is a party; provided that VSI shall secure and reasonably consider at least one

insurance quote for the Charter School's insurance coverages from a local insurance vendor/broker/agent.

**4.6 Payment of Charter School Expenses.** Pursuant to Section 5.6 of this Agreement, VSI shall make payment, within commercially reasonable time periods, of all expenses of operating the Charter School, out of the funds deposited into the Payment Account (as defined in Section 5.3 of this Agreement). VSI shall not include any added fees or charges with the cost of such expenses purchased from third parties. The Board's chairman or his/her designee shall specifically authorize the payment of the VSI Fee (as defined in Section 5.4 of this Agreement) out of the Receiving Account (as defined in Section 5.3 of this Agreement), provided that VSI shall provide the Board with prior written notice on each occasion.

**4.7 Funding of Operating Deficits.** In the event that the cash receipts of the Charter School are insufficient to fund all of the cash expenditures required to be made by or on behalf of the Charter School for any fiscal year, VSI shall advance to the Charter School the total amount of such shortfall in an amount not to exceed \$250,000 (two hundred and fifty thousand dollars)(any such advance being referred to herein as an "Operating Deficit Contribution"). Such Operating Deficit Contribution, if any, shall no interest.

**4.8 Charter School Performance Standard.** Provided that the Board and the Charter School administration support the recommendations made by VSI with respect to material educational, operational, financial and employment-related matters affecting the Charter School (and the implementation, management and assessment of same), VSI warrants that the Charter School shall attain, during or prior to the last year of the term of its First Renewal Charter, the academic performance standards committed to in its First Renewal Charter or, alternatively, its students shall attain a level of academic performance, as measured by the outcome of standardized, local, national or state-wide testing, which exceeds the average performance of students of comparable socio-economic background in the Charter School's district.

**5. Obligations of the Charter School.** The Charter School, acting through its Board, shall be obligated to perform the following duties or services, in addition to those set forth under Section 3 hereof:

**5.1 Approval of Charter School Policies.** The Charter School shall cooperate with VSI in the preparation of broad policies of the Charter School, which shall be consistent with the First Renewal Charter.

**5.2 Maintenance of Charter.** The Charter School shall do, or cause to be done, all things necessary to ensure that all legal requirements, and all such conditions as may have been imposed by the authority granting the First Renewal Charter, are fully complied with at all times. If the Charter School shall at any time receive notice from any public authority or other person that the Charter School is or may be in violation of the Charter, the Act or any provision of any applicable law or regulation, the Charter School shall immediately notify VSI of the asserted violation and shall thereafter work

diligently with VSI to determine whether such asserted violation in fact exists, to correct any violation found to exist, and to vigorously contest the asserted violation if the same is found not to exist..

**5.3 Control of Funds.** Pending their disbursement, all funds of the Charter School shall be maintained in an account (the "Receiving Account") belonging to the Charter School, but over which the Board shall have signature authority. The parties hereto also shall create a second account (the "Payment Account") belonging to the Charter School, over which VSI shall have signature authority. The Payment Account shall be funded with periodic transfers from the Receiving Account and shall be utilized for the sole purpose of permitting VSI to make disbursements for authorized expenses of the Charter School. The Charter School, VSI and the Board shall immediately turn over all funds or other revenue received on behalf of the Charter School from any source, including without limitation, all per pupil or other payments or reimbursements received from the local school district, the state, or any other source, and all contributions received on behalf of the Charter School. VSI shall disburse funds out of the Payment Account in the manner described in Section 4.6 except to the extent that any of such funds represent restricted gifts to the Charter School, in which event VSI shall disburse such funds in accordance with the applicable restrictions. The parties hereto may promulgate specific procedures and guidelines to further implement the creation and handling of the funds and the account described in this section.

**5.4 Payment of VSI Fee.** As compensation to VSI for the services rendered to the Charter School pursuant to this Agreement, the Charter School shall pay to VSI an amount each year equal to the product of (x) the total full-time equivalent enrollment of students in the Charter School as defined under Section 119.1 of the New York State Commissioner of Education Regulations multiplied by (y) two thousand dollars (\$2,000) (the "Per Pupil Fee"), provided that the Per Pupil Fee shall be increased or decreased each year by the percentage increase or decrease in the Final Adjusted Expense Per Pupil for charter schools in the New York City school district as calculated by the New York State Education Department annually, commencing with and including the 2004-2005 school year (the product of (x) multiplied by the Per Pupil Fee, the "VSI Fee"). The VSI Fee shall be payable to VSI bi-monthly on or before the first business day of July, September, November, January, March and May, with appropriate adjustments made on a bi-monthly basis to reflect actual student enrollment changes. Solely for purposes of determining the bi-monthly payments to VSI prior to the fall opening of the Charter School in any fiscal year, the total student enrollment projected in the final Board approved budget for the fiscal year will be utilized. Any VSI Fee, or portion thereof, not paid within thirty (30) days of its due date shall bear interest at an annualized rate of 7.5% per annum on the outstanding past due amount, provided that such past due payments are not as a result of the New York City Department of Education's failure to timely remit the Adjusted Expense Per Pupil to the Charter School. Notwithstanding the forgoing, no member or committee of the Board or its designee shall attempt to withhold or delay the timely payment of the VSI Fee without a prior written specific resolution passed by a majority of the Board (or supermajority, as may be required by the Board's bylaws) at a public meeting of the Board, provided that (i) the Board, prior to such meeting, shall provide VSI the reasons for such resolution, along with supporting

documentation and (ii) the Board's resolution to withhold or delay payment of the VSI Fee shall only be made after the Board has passed a resolution seeking to terminate this Agreement for one or more of the reasons set forth under Section 8.1 and any cure periods provided for thereunder have expired.

In the event of any material change in the level or scope of VSI's services required under this Agreement due to a change in the school's Key Design Elements, curriculum, programs, operation, or any other reason, the parties will negotiate in good faith an appropriate adjustment in the VSI Fee to reflect the additional services to be provided by VSI, except that no material change affecting the VSI Fee shall be made to the Key Design Elements without the mutual consent of the Board and VSI.

It is understood by both parties that all expenses incurred by VSI and its employees in the performance of this Agreement shall be included in the VSI Fee and shall not be reimbursable to VSI from the Charter School; provided, however, that in the event that VSI and the Charter School enter into a separate agreement or agreements whereby the Charter School commits to reimbursing VSI for certain expenses, this section shall not apply to such reimbursable expenses; and provided further, that this section shall not apply to budgeted expenses of the Charter School which are incurred by VSI rather than the Charter School for convenience or in anticipation of receipt of Charter School funds from other sources.

**6. Tax Status.** Each of VSI and the Charter School shall take all reasonable steps to maintain status as a tax-exempt organization under federal and state law such that contributions to the Charter School are deductible to the donor for federal income tax purposes. In the event of arbitration pursuant to Section 11 of this Agreement, each of the Charter School and VSI shall agree that, notwithstanding any claims for relief each may seek from the other, it will require that any relief granted be consistent with maintaining the Charter School's tax-exempt status. If the Board and VSI conclude it is appropriate to do so, the Charter School may seek to establish a separate tax-exempt organization to conduct fund raising activities and receive tax-deductible contributions in support of the Charter School and/or of education generally.

**7. Effective Date and Duration.**

7.1 This Agreement shall take effect immediately upon, and only upon, (a) the approval by the SUNY Trustees and the Board of Regents of the First Renewal Charter (or its approval by operation of law) pursuant to subdivision 2852(5-a) or (5-b) of the Act and (b) expiration of the term of the Charter School's Charter (the "Effective Date"). This Agreement shall expire on the date the First Renewal Charter expires, unless earlier terminated.

7.2 Provided that the Charter School satisfies the academic performance results set forth in the First Renewal Charter by the close of the term specified in Section 7.1, this Agreement may automatically renew for two (2) successive five (5) year renewal periods, except that the Board, by a unanimous vote, may terminate either renewal of this Agreement. The parties hereto agree to commence negotiations regarding renewal of this Agreement no later than 90 (ninety) days before the expiration of this Agreement.

7.3 In the event this Agreement is not renewed for any reason, then the Charter School shall pay to VSI any and all deferred or otherwise owed VSI Fees, Operating Deficits Contributions or any other compensation accrued under or in connection with this Agreement. Such fees shall be paid ratably to VSI on a monthly basis within a 48 month period, but in no event shall monthly payments to VSI be less than seventy-five percent (75%) of monthly payments then currently paid by the Charter School to any other education management company, staff trainer, consultant, curriculum developer or provider of central services.

**8. Termination.**

8.1 This Agreement may be terminated prior to the expiration of its term as set forth in Section 7 only under the following conditions:

- (a) if VSI shall under such laws as shall be applicable to it commence any case or proceeding, or file any petition in bankruptcy, or for reorganization, liquidation or dissolution, or be adjudicated, insolvent or bankrupt, or shall apply to any tribunal for a receiver, intervenor, conservator or trustee for itself or for any substantial part of its property; or if there shall be commenced against it any such action and the same shall remain undismissed; or if by any act it shall indicate its consent to, approval of, or acquiescence in any such proceeding, or the appointment of any receiver, intervenor, conservator or trustee for it or any substantial part of its property or shall suffer any of the same to continue undischarged; or if it shall become subject to any intervention whatsoever that shall deprive it of the management of the aggregate of its property or any substantial part thereof; or if it shall wind up or liquidate its affairs or there shall be issued a warrant of attachment, execution, or similar process against any substantial part of its property, and such warrant, execution or process shall remain undismissed, unbounded or undischarged for a period of ninety (90) days, this Agreement shall be deemed immediately terminated upon the occurrence of such event.
- (b) If VSI is found by an administrative or judicial body to have made fraudulent use of funds, or if an administrative or judicial body has permanently revoked any license which may be required for VSI to carry on its business and perform its obligations and functions under this Agreement, this Agreement shall be deemed immediately terminated upon the occurrence of such event.
- (c) If there shall occur or shall become known to either party an intentional material breach of the other's obligations, representation, or warranties under this Agreement, including, without limitation, the improper delay or non-payment of the VSI Fee, such party may terminate this Agreement upon ninety (90) days written notice to the other provided that the other

party may prevent termination by curing such breach within ninety (90) days of receipt of such written notice.

- (d) If there shall become known to the Board at any time after the effective day of this Agreement an intentional material breach of VSI's obligations under this Agreement which, in the Board's reasonable judgment, jeopardizes the safety, health, or well-being of the students at the Charter School, the Board shall have the right to suspend this Agreement immediately if, within ninety (90) days of VSI's receipt of written notice of the alleged breach from the Board, VSI has not either cured the breach (or, if the problem cannot reasonably be cured within such ninety (90) day period, has not commenced and continued diligently to prosecute a cure), or established to the reasonable satisfaction of the Board that no material breach of VSI's obligations hereunder which jeopardize the safety, health, or well-being of the students at the Charter School has, in fact, occurred.
- (e) If with respect to any two (2) consecutive fiscal years of the Charter School's operation VSI shall make Operating Deficit Contributions which exceed five percent (5%) of the gross per pupil payment revenues of the Charter School for the relevant fiscal year, VSI may, upon written notice to the Charter School, terminate this Agreement effective as of the date specified in such notice, which date shall not be earlier than the later of (i) the date which is thirty (30) days after the date of such notice, or (ii) if school is in session when such notice is given, the last day of the current school year.
- (f) VSI shall have the right to terminate this Agreement, on thirty (30) days prior written notice to the Board, in the event that the First Renewal Charter is revoked or not renewed, or if performance of its obligations hereunder is otherwise made impossible or impracticable by circumstances beyond VSI's control.

8.2 Upon expiration or termination of this Agreement for any reason, the parties agree to cooperate in good faith and use their best efforts to complete a prompt and orderly separation, it being the intention of both parties that the Charter School shall remain open and operating in its normal course in the event of such expiration or termination of this Agreement, in accordance with the following rights and obligations of the parties:

- (a) the Charter School shall have the right to use VSI Proprietary Information, as defined under Section 9 hereof, then currently in use by the Charter School, until the last day of the then current school year; provided, however, that in the event that the Charter School enters into a contractual relationship during the then current school year with any other company that provides services substantially similar to the services to be provided herein by VSI, then the Charter School shall return all VSI Proprietary Information to VSI;

- (b) VSI shall provide the Charter School with all student records, financial reports, employee records and other Charter School data in VSI's possession and not currently in possession by the Board; and
- (c) VSI shall provide the Charter School with reasonable educational and operational transition assistance for a period of sixty (60) days after the termination of this Agreement, provided that the Charter School shall pay to VSI all fees, expenses and other costs of VSI consultants and agents who may, from time to time, upon mutual agreement of the parties, provide assistance to the Charter School or its students.

8.3 In the event that this Agreement is terminated or not renewed at a time when VSI has loaned funds to the Charter School, guaranteed any debt or other financial obligation of the Charter School, or provided credit support, whether in the form of a letter of credit or otherwise, to the Charter School, notwithstanding any other provision of this Agreement to the contrary, such termination shall be effective and the Charter School shall remain liable to VSI until the first date on which such loan has been repaid in full, such guarantee has been released by the beneficiary thereof, or such letter of credit or other credit support has been released and/or returned to VSI, all in accordance with the terms therein.

8.4 In the event of termination pursuant to this Article 8, neither party shall have any further obligations to the other hereunder except those which cannot be disclaimed by law, liability for amounts accrued and unpaid hereunder, and obligations expressly stated to be effective after the termination hereof.

**9. Proprietary Information.** (a) The Charter School agrees that VSI and its affiliates shall own all trademark, copyright and other proprietary rights (collectively the "Intellectual Property Rights"), whether developed before or after the date of this Agreement, in and to all instructional materials, training materials, curriculum and lesson plans, instructional and management methods, and any other materials and methods developed or provided by VSI, its employees, agents or subcontractors, and any person working under VSI's direction (collectively the "VSI Proprietary Information"). During the term of this Agreement and after its termination, the Charter School shall maintain all VSI Proprietary Information and written and oral ideas, information or designs disclosed to the Charter School, in confidence, and shall not disclose, publish, copy, transmit, modify, alter or use in any fashion the VSI Proprietary Information other than to the extent necessary for implementation of this Agreement. During the term of this Agreement and after its termination, the Charter School shall take reasonable measures to assure that no Charter School employees or agents disclose, publish, copy, transmit, modify, alter or use such confidential information or VSI Proprietary Information other than in accordance with this Agreement.

(b) The Charter School agrees that VSI shall own all Intellectual Property Rights in all material that is developed by the parties together or by any employee or consultant of the Charter School pursuant to this Agreement. The Charter School agrees that it will take reasonable measures to ensure that all contributions of its employees or consultants to such materials will constitute a "work made for hire" within the meaning of the Copyright Act of 1976, 17 U.S.C. §

101. In the event that such works may not constitute a "work made for hire," the Charter School agrees to cause the applicable employee or consultant to execute an assignment of his or her rights in such contribution to VSI.

**10. Indemnification. Liability.** VSI shall not be liable for any act or omission resulting in loss or damage to the Charter School or the Board, or any of their respective affiliates, except to the extent that such loss or damage is caused by the gross negligence or willful misconduct of VSI. VSI makes no representation or warranty of successful management or operation of the Charter School by VSI. The liability of VSI, if any, under this Agreement shall under no circumstances extend to indirect or consequential damages. Under no circumstances shall VSI have any liability under this Agreement for any action taken by it at the direction of, or specifically approved by, the Board, except to the extent that VSI shall have been grossly negligent or engaged in willful misconduct in the carrying out of such instructions.

**Indemnification by Charter School.** The Charter School shall indemnify and hold harmless VSI and its affiliates, and their directors, officers, employees, subcontractors, agents or representatives (the "VSI Indemnitees") from, against and with respect to any and all claims, demands, suits, liabilities, losses, damages, costs and expenses (including interest, penalties and attorney's fees and disbursements) (collectively, "VSI Claims") (i) arising out of or as a result of any action taken or not taken by VSI or any of the VSI Indemnities pursuant to this Agreement; (ii) in connection with any material noncompliance by VSI with any agreements, covenants, warranties or undertakings of VSI contained in or made pursuant to this Agreement or otherwise; and (iii) relating to any material breach of the representations and warranties of VSI contained in or made pursuant to this Agreement, other than VSI Claims arising out of or as a result of the gross negligence, recklessness or willful misconduct of VSI. In addition, the Charter School shall reimburse VSI for any and all legal expenses and costs associated with the defense of any VSI Claim other than VSI Claims arising out of the gross negligence, recklessness or willful misconduct of VSI.

**Indemnification by VSI.** VSI shall indemnify and hold harmless the Charter School and its affiliates, and their directors, officers, employees, subcontractors, agents or representatives (the "Charter School Indemnitees") from, against and with respect to any and all claims, demands, suits, liabilities, losses, damages, costs and expenses (including interest, penalties and attorney's fees and disbursements) (collectively, "Charter School Claims") (i) arising out of or as a result of any action taken or not taken by the Charter School or any of the Charter School Indemnitees pursuant to this Agreement; (ii) in connection with any material noncompliance by the Charter School with any agreements, covenants, warranties or undertakings of the Charter School contained in or made pursuant to this Agreement or otherwise; and (iii) relating to any material breach of the representations and warranties of the Charter School contained in or made pursuant to this Agreement, other than Charter School Claims arising out of or as a result of the gross negligence, recklessness or willful misconduct of the Charter School. In addition, VSI shall reimburse the Charter School for any and all legal expenses and costs associated with the defense of any Charter School Claim other than Charter School Claims arising out of the gross negligence, recklessness or willful misconduct of the Charter School.

**11. Arbitration. General.** Any controversy or claim arising out of or relating to this Agreement or the breach hereof shall be finally settled by arbitration. The arbitration shall be

held in New York, New York and shall be conducted in accordance with the Rules of the American Arbitration Association ("AAA") in effect at the time of the arbitration. The arbitration shall be conducted in the English language. The arbitration proceedings, all documents and all testimony, written or oral, produced in connection therewith, and the arbitration award shall be confidential.

Selection of the Arbitrators. The arbitration panel shall consist of three arbitrators, each of whom may be an attorney duly licensed to practice law. The party initiating arbitration (the "Claimant") shall appoint one arbitrator in its demand (the "Demand"). The other party (the "Respondent") shall appoint one arbitrator within 30 days of receipt of the Demand (whether the Demand is received from the Claimant or from the AAA) and shall notify the Claimant of such appointment in writing. If the Respondent fails to appoint an arbitrator within such 30-day period, the arbitrator named in the Demand shall decide the controversy or claim as a sole arbitrator. Otherwise, the two arbitrators appointed by the parties shall appoint a third arbitrator within 30 days after the Respondent has notified Claimant of the appointment of the Respondent's arbitrator. When the arbitrators appointed by the Claimant and Respondent have appointed a third arbitrator and the third arbitrator has accepted the appointment, the two arbitrators shall promptly notify the parties of the appointment of the third arbitrator. If the two arbitrators appointed by the parties fail or are unable so to appoint a third arbitrator or so to notify the parties, either party may request the AAA to appoint the third arbitrator within 30 days after such request and shall notify the parties of the appointment. The third arbitrator shall act as Chair of the panel.

Interim Orders. In addition to the authority conferred on the arbitrators by the AAA and by law, the arbitrators shall have the authority to order such discovery and production of documents, including the deposition of party witnesses, and to make such orders for interim relief, including injunctive relief, as they may deem just and equitable.

The Award. The arbitral award may grant any relief deemed by the arbitrators to be just and equitable, including, without limitation, specific performance. The arbitral award shall state the reasons for the award and relief granted, shall be final and binding on the parties to the arbitration, and may include an award of costs, including reasonable attorneys' fees and disbursements.

Specific Enforcement. The foregoing agreement to arbitrate shall be specifically enforceable.

## **12. Miscellaneous Provisions.**

12.1 Notices. All communications and notices relating to this Agreement are to be delivered in writing, with confirmation of delivery, to the following address or to such other address as either party may designate from time to time.

If to the Charter School, to:

Merrick Academy – Queens Public Charter School  
c/o Board of Trustees  
207-01 Jamaica Avenue  
Queens Village, New York 11428-1549

With a copy to:

The Law Offices of Joan Flowers  
219-10 South Conduit  
Springfield Gardens, New York 11413

If to VSI, to VSI in care of:

Victory Schools, Inc.  
Attn: James K. Stovall, General Counsel  
111 West 57<sup>th</sup> Street, Suite 525  
New York, New York 10019

**12.2 Governing Law.** The rights and remedies of either party under this Agreement shall be cumulative and in addition to any other rights given to either party by law and the exercise of any right or remedy shall not impair either party's right to any other remedy. This Agreement shall be governed by and construed and enforced in accordance with the internal laws of the State of New York (other than the provisions thereof relating to conflicts of law).

**12.3 Enforceability and Validity of Certain Provisions.** If any provisions of this Agreement shall be held, or deemed to be, or shall, in fact, be inoperative or unenforceable as applied in any particular situation, such circumstances shall not have the effect of rendering any other provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or paragraphs herein contained shall not affect the remaining portions of this Agreement or any part hereof.

**12.4 Entire Agreement.** This Agreement shall not be changed, modified or amended nor shall a waiver of its terms or conditions be deemed effective except by a writing signed by the parties hereto. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supercedes all prior agreements or understandings, written or oral, in respect thereof.

**12.5 Waiver.** The failure by either party hereto to insist upon or to enforce any of its rights shall not constitute a waiver thereof, and nothing shall constitute a waiver of such party's right to insist upon strict compliance with the provisions hereof. No delay in exercising any right, power or remedy created hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy by any such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No waiver by any party hereto to any breach of or default in any term

or condition of this Agreement shall constitute a waiver of or assent to any succeeding breach of or default in the same or any other term or condition hereof.

**12.6 Succession.** The covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the heirs, legal representatives, successors and permitted assigns of the respective parties hereto.

**12.7 Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other party; provided, however, that VSI may assign this Agreement in connection with a sale, merger or other transaction in which all or substantially all the assets of VSI are sold or exchanged. Both parties acknowledge that an assignment of this Agreement by either party may constitute a revision of the First Renewal Charter and may require approval by the SUNY Trustees pursuant to the Act.

**12.8 Form of Execution.** This Agreement may be executed by facsimile and in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument.

**12.9 Compliance with Law.** Each of the Charter School, including its Board and staff, and VSI shall manage and operate the Charter School, and shall conduct all of its affairs in compliance with all applicable federal, state and local statutes, rules and regulations, including without limitation requirements prohibiting discrimination in employment.

**12.10 FERPA.** The Charter School hereby designates employees of VSI, to the extent permitted by law, as agents of the Charter School having a legitimate educational interest such that they are entitled to access to education records under 20 U.S.C. § 1232g, the Family Educational Rights and Privacy Act ("FERPA"). VSI, its officers and employees, shall comply with FERPA at all times.

**12.11 Access to Records.** VSI and its employees, officers and representatives shall have access at all times to the properties, books and records of the Charter School. The Charter School shall furnish such information and documents in its possession relating to the Charter School as VSI may request in its sole discretion. The Charter School shall have access at all times to the properties, books and records of the Charter School. VSI shall furnish such properties, books and records in its possession to the Charter School as the Charter School may request.

**12.12 Relationship of Parties.** VSI and its employees shall serve as independent contractors in rendering services under this Agreement and are not and shall not be the employees or servants of the Charter School or the Charter School Board. VSI may act as an agent of the Charter School or the Charter School Board in conducting transactions necessary for the operation of the Charter School. Notwithstanding any other provision of this Agreement, the parties hereto understand and agree that VSI shall be required only to devote such of its resources to providing the services called for by this Agreement as are reasonably necessary and appropriate to the discharge thereof. The

Charter School expressly acknowledges that VSI shall not be required to apply its full resources to the performance of this Agreement.

**12.13 Absence of Partnership.** Neither this Agreement nor any arrangement contemplated hereby shall create the relationship of partners, joint venturers or principal and agent between the parties hereto or any of their respective affiliates, except as the parties expressly agree otherwise in writing. None of the parties hereto has any authority to represent or bind the other parties in any manner whatsoever.

**12.14 Further Actions.** Each party hereto shall, at all times, cooperate in taking such actions and doing or causing to be done all things necessary, proper or advisable or reasonably requested by the other party hereto to effect the intent and purpose of this Agreement and implement the transactions contemplated hereby.

**12.15 Entire Agreement.** This Agreement is the entire agreement of the parties with respect to the subject matter hereof and supersedes all other prior agreements, understandings, statements, representations and warranties, oral or written, express or implied, between the parties hereto and their respective affiliates, representatives and agents in respect of the subject matter hereof.

**12.16 Delegation of Authority.** Nothing in the Agreement shall be construed as delegating to VSI any of the powers or authority of the Charter School which are not subject to delegation by the Charter School under New York law.

**12.17 Survival.** All representations, warranties and indemnities made herein shall survive termination of this Agreement.

**INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS.**

**EXECUTION COPY**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

VICTORY SCHOOLS, INC.

By: Margaret R. Harrington  
Margaret Harrington, Chief Operating Officer

MERRICK ACADEMY—QUEENS PUBLIC  
CHARTER SCHOOL

By: Juanita E. Watkins  
Ms. Juanita Watkins, Board Chairperson



**Charter Schools Institute**  
**State University of New York**

**REPORT TO THE BOARD OF TRUSTEES**

**FINDINGS AND RECOMMENDATIONS  
OF THE CHARTER SCHOOLS INSTITUTE  
AS TO THE APPLICATION FOR CHARTER  
RENEWAL OF THE MERRICK ACADEMY -  
QUEENS PUBLIC CHARTER SCHOOL**

**FEBRUARY 8, 2005**

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## **INTRODUCTION**

The Charter Schools Act of 1998 (the "Act") authorizes the State University of New York Board of Trustees (the "Board of Trustees") to grant charters for the purpose of organizing and operating independent and autonomous public charter schools. Charter schools 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
- 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.<sup>1</sup>

In order to assist the Board of Trustees in their responsibilities under the 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 charter schools' applications for renewal and providing its resulting 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 recommendations regarding a school's renewal application, and more broadly, the merits of a school's case for renewal. It has been created and issued pursuant to the "Practices, Policies and Procedures for the Renewals of Charters for State University Authorized Charter Schools" (the "State University Renewal Practices").<sup>2</sup> More information regarding this report is contained in the "Reader's Guide" that follows.

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<sup>1</sup> See § 2850 of the Charter Schools Act of 1998.

<sup>2</sup>The State University Renewal Practices, Policies and Procedures (revised January 25, 2005) are available at [www.newyorkcharters.org](http://www.newyorkcharters.org).

## **Statutory and Regulatory Considerations**

Charters may be renewed, upon application, for a term of up to five years. The Act prescribes the following requirements for a charter school renewal application:

- 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.<sup>3</sup>

The Institute's processes and procedures mirror these requirements and meet the objectives of the Act.<sup>4</sup>

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 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 Act.<sup>5</sup>

Where the Board of Trustees approve a renewal application, they are required under the Act to submit the application and a proposed charter to the Board of Regents for its review.<sup>6</sup> The Regents may approve or return the proposed charter to the Board of Trustees with the Regents' comments and recommendation. In the former case, the charter will then issue and become operational on the day the initial charter expires. In the latter case (return to the Board of Trustees), the Board of Trustees must review the returned proposed charter in light of the Regents' comments and respond by resubmitting the charter (with or without modification) to the Regents, or by abandoning the proposed charter. Should the Board of Trustees resubmit the charter, the Regents have thirty days to act to approve it. If they do not approve the proposed charter, it will be deemed approved and will issue by operation of law.<sup>7</sup>

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<sup>3</sup> § 2851(4) of the Act.

<sup>4</sup> Further explication of these policies and procedures is available on the Charter Schools Institute's website. See <http://www.newyorkcharters.org/howto/renewal.html>.

<sup>5</sup> See § 2852(2) of the Act.

<sup>6</sup> See § 2852(5) of the Act.

<sup>7</sup> See §§ 2852(5-a) and (5-b) of the Act.

## Process for Renewal

While that renewal process formally commences with submission of a renewal application, a school must work to make the case for renewal from the time it is chartered. From its inception, the school must build its case for renewal by setting educational goals and thereafter implementing a program that will allow them to meet those goals.

Under the State University's accountability cycle, a school that is chartered enters into a plan (the "Accountability Plan")<sup>8</sup> setting forth the goals for the school's educational program (and other measures if the school desires) usually in the first year of the charter. Progress toward each goal is determined by specific measures. Both goals and measures, while tailored in part to each school's program, must be consistent with the Institute's written guidelines. When the Accountability Plan is in final form, it receives approval from the Institute.

Thereafter, the charter school is required to provide an annual update on its progress in meeting its Accountability Plan goals and measures (the "Accountability Plan Progress Report").<sup>9</sup> This permits the school not only the ability to provide all stakeholders with a clear sense of the school's progress, but forces the school to focus on specific academic outcomes. In the same vein, both the Institute and the State Education Department conduct visits to the school on a periodic basis. The main purpose of the Institute's visits is to determine the progress the school is making in implementing successfully a rigorous academic program that will permit the school to meet its Accountability Plan goals and measures. Reports and de-briefings for the school's Board or leadership team are designed to indicate the school's progress, its strengths and its weaknesses. Where possible, and where it is consistent with its oversight role, the Institute provides general advice as to potential avenues for improvement. To further assist the school in this regard, the Institute may contract with third-party, school inspection experts to conduct a comprehensive third-year visit to the school and to look specifically at the strength of the school's case for renewal at that point.

By the start of the fifth year of a school's charter (as set forth above), it must submit an application for charter renewal, setting forth the evidence required by law and the State University. Applicant charter schools are asked to formulate and report evidence of success in answer to four renewal questions:

- Is the school an academic success?
- Is the school a viable and effective organization?
- Is the school fiscally sound?
- If the school's charter is renewed, what are its future plans?

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<sup>8</sup> See <http://www.newyorkcharters.org/resource/reports.html> for detailed information on Accountability Plan guidelines.

<sup>9</sup> See <http://www.newyorkcharters.org/resource/Model%20Progress%20Report1.pdf> for a model Accountability Plan Progress Report.

The application is reviewed by Institute staff. The staff also conducts a desk audit to both gather additional evidence as well as verify the evidence the school has submitted. This audit includes examination of the school's charter, including amendments, Accountability Plan, Accountability Plan Progress Reports, Annual Reports and internal documents (such as school handbooks, policies, memos, newsletters, and Board meeting minutes). Institute staff also examines audit reports, budget materials, and reports generated over the term of the school's charter both by the Institute and the State Education Department.

Thereafter, the Institute conducts a multi-day site visit to the school. Based on a review of each school's application for charter renewal, a lead member of the Institute's renewal visit team works with the school's leadership to design a visit schedule and request any additional documentation the team may require to ensure that analysis of the school's progress is complete (professional development plans, special education plans, school newsletters, *etc.*). Renewal visit team members visit classes, observe lessons, examine student work, sit in on school meetings, interview staff members and speak informally with students. In addition, the team conducts extensive interviews with the school's board of trustees and administrators.

The evidence that the Institute gathers is structured by a set of benchmarks that are grouped under the four renewal application questions listed above. These benchmarks are linked to the accountability plan structure and the charter renewal requirements in the Act; many are also based on the correlates of effective schools.<sup>10</sup>

Following the visit, the Institute's renewal team finalizes the analysis of all evidence generated regarding the school's performance. The Institute's renewal benchmarks are discussed and the lead writer uses the team's evidence and analysis to generate comments under each renewal benchmark. The completed benchmarks present a focus for discussion and a summary of the findings. The benchmarks are not used as a scorecard, do not have equal weight, and support but do not individually or in limited combination provide the aggregate analysis required for the final renewal recommendation.

The Institute then prepares a draft report and provides a copy to the school for its review and comment. The draft contains the findings, discussion and the evidence base for those findings, but does not contain a recommendation. Upon receiving a school's comments, the Institute reviews its draft, makes any changes it determines are necessary and appropriate and determines its findings in their final form. The report is then finalized, recommendations are included, and copies are provided to the members of the Committee on Charter Schools, the other members of the Board of Trustees and the schools themselves. This report is the product of that process.

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<sup>10</sup> See <http://www.effectiveschools.com>.

## READER'S GUIDE

This renewal report contains the following sections: Introduction, Reader's Guide, School Description, Recommendations and Executive Summary, Findings and Discussion and completed Renewal Benchmarks. As this guide, the Introduction, and School Description speak for themselves, no guidance is provided for these sections. Guidance as to the remaining sections is set forth below.

### 1. Executive Summary and Recommendations

The Institute's Recommendations are the end result of its review process. In this section, the Institute provides not only its recommendation as to whether the charter should be renewed, but the recommended terms of any renewal, *i.e.*, short or long-term, grades and number of students it is recommended the school be authorized to serve, conditions under which the charter is renewed, *etc.* Following the recommendations themselves is a short executive summary that lays out in abbreviated form reasons for the recommendation as well as the findings that support the recommendation.

Pursuant to the State University Renewal Practices, the recommendations made by the Institute can take the following forms.

- *Early renewal*: available to schools in the fourth year of the charter that can at that point make a compelling and unambiguous case for renewal. Schools that gain early renewal will then have five full years of instruction before facing renewal again, thus allowing them to concentrate on instruction and providing them with more ready access to capital markets.
- *Short-term planning year renewal*: available to schools that have taken one or more planning years. These schools will be able with limited review to obtain renewal in order to allow them to gather at least four full years of data before facing a full-blown renewal review.
- *Renewal*: available to schools in their fifth year. Schools that have a compelling and unambiguous case for renewal will be eligible for renewal term of five years.
- *Renewal with conditions*: available to schools that 1) have a compelling and unambiguous educational record of success but that have material legal, fiscal or organizational deficiencies that practically cannot be completely corrected by the time of renewal — so long as such deficiencies are not fatal to a determination that the school is fiscally, legally and organizationally sound, or 2) have demonstrated sufficient academic performance for renewal, but require conditions to improve the academic program. Such

conditions may include but are not limited to restrictions on the number of students and grades served.

- *Short-term renewal*: available to schools in their fifth year that present an ambiguous or mixed record of educational achievement, but that have effectively implemented measures to correct those deficiencies and such measures are likely to lead to educational success and students' academic improvement with additional time. Typically, but not always, short-term renewal will be for two years. A short-term renewal may also be coupled with conditions relating to organizational, fiscal or legal deficiencies.
- *Restructuring renewal*: available to schools that have not presented a case for renewal of any kind, but that are voluntarily willing to enter into a restructuring plan whereby the current school would cease instruction at the end of the school's final year of instruction under the current charter and its Board of Trustees would wind up operations of the school. Thereafter, the school's Board would legally commit itself to implementing a wholesale restructuring of the education corporation, including a new Board of Trustees, administrative team, academic program, enrollment and organizational structure, and potentially a new location, which school then could meet and exceed state standards and all the requirements of the Act. Once restructured the education corporation would have authority to recommence instruction.
- *Non-renewal*: where a school does not present a case for renewal (short term, conditional, or otherwise), the charter will not be renewed and the charter will be terminated upon its expiration.

In addition to discussing the recommendations themselves (and any conditions made part of those recommendations), the executive summary also contains the findings required by subdivision 2852(2) of the Education Law, including whether the school, if renewed, is likely to improve student learning and achievement.

## 2. Finding and Discussion

The findings are grouped and separated into four sections corresponding to the four questions that a charter school seeking renewal must answer and must provide evidence supporting its answer. They are:

- Is the school an academic success?
- Is the school a viable and effective organization?
- Is the school fiscally sound?
- If the school's charter is renewed, what are its future plans?

Below each group of findings is a summary of the evidence supporting the finding. This evidence is a synthesis of information gathered over the life of the school's charter and is analyzed through the lens of the Institute's Renewal Benchmarks (available on the Institute's website).

The ordering of the findings—with those regarding a school's academic performance and outcomes placed first—reflect the fact that renewal of a State University authorized charter is primarily based on a school's progress towards performance-based goals that the charter school and the Institute agreed to in the school's Accountability Plan. However, while success in meeting these goals is the primary determining factor, the school's ability to demonstrate that its educational program as implemented is effective and that the organization is viable, fiscally stable and in compliance with applicable law are also important factors. So, too, the school must be able to show that its plans for the charter renewal term are feasible, reasonable and most of all achievable.

### **3. Renewal Benchmarks**

The Renewal Benchmark section contains each renewal benchmark together with a review of the pertinent evidence gathered during the renewal cycle. As noted earlier, the benchmarks, similar to the findings, are grouped under the four renewal questions.

## SCHOOL DESCRIPTION

The Merrick Academy - Queens Public Charter School (Merrick, the Academy, or Merrick Academy) was approved by the State University Board of Trustees in June of 2000 and by the Board of Regents in May of that year. Originally housed in temporary space in Springfield Gardens, the school opened in September of 2000 with an enrollment of 121 students in Kindergarten through second grades. At the time of the renewal visit, the school was located in refurbished space on Jamaica Avenue in Queens Village. The school will enroll 450 students in Kindergarten through sixth grades when it opens for the fifth year of its charter in the fall of 2004.

Merrick Academy's mission statement is as follows:

*The mission of Merrick Academy is to become one of the finest public schools in America. The Academy will be built on the philosophy that all children can learn and the Academy will ensure that all students meet or exceed New York State performance standards.*

*The focus of the Academy will be on the core skills of reading, language and mathematics. The Academy will be organized to provide an extended day, a high degree of individualized instruction and an innovative research-based academic curriculum.*

The school's founding Principal and Board members continue to guide Merrick Academy's operation. The school's Board of Trustees contracts with Victory Schools, Incorporated for its management. Victory Schools seeks to improve public education by assisting in the start-up and management of public charter schools of outstanding quality, particularly those created to serve at-risk students. Built on the premise that all children can learn, Victory Schools uses an educational program that employs Direct Instruction, Scott Foresman Reading, Core Knowledge, Everyday Mathematics, and an extended school day schedule featuring a strong enrichment component based on thematic curricula.

## **EXECUTIVE SUMMARY AND RECOMMENDATIONS**

**Recommendation No. 1:** The Charter Schools Institute recommends that the State University Board of Trustees approve the application for renewal of the Merrick Academy – Queens Public Charter School and renew the charter of Merrick Academy for a period of five years subject to the applicable terms of the renewal application and subject to the following additional conditions: Merrick shall have authority to provide instruction in grades Kindergarten through six with an enrollment of 450 for any portion of the 2004-05 school year; thereafter the school's authority to provide instruction shall be limited to grades Kindergarten through five with a maximum enrollment in each such year of 570 students, and at all times consistent with the other applicable terms of the renewal application.

### **Summary Discussion**

The Institute recommends that Merrick be granted a full-term renewal of five years, the longest period that the law provides. Merrick has met many, though not all, of the measures of student academic performance it set for itself in its Accountability Plan, including, of particular note, meeting the target for the number of students at New York State standards in both English Language Arts and mathematics in the fourth year of its charter, the latest data available. As a whole, the student achievement data the school has amassed during its first four years of operation indicates that the school has significantly improved student learning and achievement, and the school is in good standing under No Child Left Behind.

At the time of the renewal visit in spring 2004, the school generally had effective systems and programs in place that provide a basis for concluding (together with the outcome data noted above) that the school would, if approved for renewal, likely continue to improve student learning and achievement. In addition, the school has benefited from consistent leadership at the school's Board of Trustees and Principal level, located and renovated a suitable facility, and maintained overall financial health. The school is a viable and effective organization.

The school asked in its renewal application for authority to provide instruction in grades Kindergarten through eight. While the instructional program at the Kindergarten through fourth grades is strong, the program in grades five, and especially six, is less so. Moreover, while the written plans for providing instruction in all middle school grades are nominally complete, the Institute does not find that the school has the personnel, programs and capacity that permit the Institute to find a likelihood of success in improving student achievement in the sixth, seventh and eighth grades. Accordingly, the Institute recommends that renewal be conditioned by

limiting the authority of the school to provide instruction during the second term of the charter to students in grades Kindergarten through five with a maximum enrollment of 570.<sup>11</sup> As so configured and conditioned, the school is likely to improve student learning and achievement. So, too, the school and its programs as described in the charter application meet the requirements of the Charter Schools Act and other applicable law.

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<sup>11</sup> The Institute's recommendation to permit the school to continue to provide instruction to grade six students during the remainder of the 2004-05 school year takes into account the fact that the school is currently providing instruction in that grade and that the current charter expires on May 4, 2005. The alternative would require the school to end instruction in grade six before the end of the school year, an option which is not educationally sound.

## FINDINGS AND DISCUSSION

### 1. Is the School an Academic Success?

- Finding 1: The school posts positive results in meeting the absolute and comparative goals of student achievement as measured by New York State assessments in English Language Arts, mathematics and science. As measured by a nationally-normed standardized achievement test, the Iowa Test of Basic Skills (ITBS), Merrick's students generally score on grade level. The school has posted mixed results in increasing student performance over grade level as called for in its value-added accountability goal.*
- Finding 2: Using student achievement data as a guide, the school has, over the life of its charter, modified and augmented its curriculum. At the time of the renewal visit, the school's curriculum is aligned with state standards and in use at each grade level.*
- Finding 3: In the first three years of the school's charter, classroom instruction at Merrick Academy - Queens Public Charter School was well suited to the grade levels the school served and the previous English Language Arts and mathematics curriculum. The modified curriculum and the school's growth to serve students in upper elementary and early middle school grades requires a level of robust instruction the school has yet to achieve.*
- Finding 4: Over the term of its charter, the school has had an internal assessment program that includes teacher-developed rubrics to assess student proficiency in the achievement of state standards. The assessment program has been modified to match the school's newly aligned curriculum. The school has yet to develop this program into an internal system of assessment that ensures consistency of use within and across grade levels.*
- Finding 5: Instruction in fifth and sixth grades is weak and inadequate as are the supports for it.*
- Finding 6: The current student code of conduct, as written, is sufficient. However, as implemented, it has not fully supported a rigorous learning environment.*
- Finding 7: Merrick Academy - Queens Public Charter School's fine arts program provides strong enrichment and augmentation of academics and serves as a centerpiece for the school and community.*

At the end of its fourth year of operation, Merrick Academy has demonstrated academic achievement as measured by the absolute

percentage of students at state standards and by the percentages of students at state standards in comparison with its community school district and individual public schools enrolling similar students. In particular, Merrick met four out of five absolute measures of academic success and nine out of twelve comparative measures of academic success as indicated by its performance on the New York State assessments in English Language Arts, mathematics and science.

To gauge academic success by measuring year-to-year achievement (the "value" the school provides the children it enrolls), Merrick Academy administers the Iowa Test of Basic Skills (ITBS). This test is a nationally-normed standardized achievement test administered to hundreds of thousands of students across the United States. Merrick Academy posts mixed results in achieving its value-added ITBS English Language Arts and mathematics scores. While students at Merrick Academy consistently score at grade level, the school has not yet met a level of achievement that meets its value-added goal of a three percentile gain for all students each year.

Consistent with its success in meeting many of its outcome measures, Merrick Academy has built over the life of the charter a solid academic environment where achievement and class participation have been valued. In its first three years, instruction was girded by a detailed English Language Arts and mathematics curriculum that provided teachers with exacting and detailed lesson plans and a set of internal school assessments to assist in both instruction and tracking student progress toward academic goals. During its third year, the school, while having determined that its original curriculum sufficiently served to assist students in acquiring the basic skills necessary for academic advancement, decided to modify its curriculum to further enhance student performance, especially as to students' acquisition of higher-order thinking skills.

At the time of the visit, the new curriculum and accompanying internal assessment system were in place. While the curriculum as now presented remains aligned with state standards, it requires much more instructional proficiency from Merrick Academy's teaching staff and instructional leadership, a proficiency the school has yet fully to reach. This premium on those critical qualities is further increased by the school's need to knit together disparate internal assessments into one detailed, defined and fully implemented assessment system. Though the school has rightly identified the need to expand its structure to include additional instructional leadership to assist the school's founding Principal in accomplishing these tasks, the necessary personnel are not yet in place.

A lack of sufficient structures at the curriculum and assessment level, as well as the lack of proficiency in instruction is particularly notable in fifth

and sixth grades. Instructors in those grades are generally new to the field and none has more than three years experience; all are new to Merrick. The level of instruction at the school is weak, generally below grade level, and insufficient to prepare students for success in middle school.

Merrick Academy - Queens Public Charter School has also succeeded in developing a school culture where students displayed behavior that promoted an academically focused environment when it enrolled children in primary grades. The student discipline code of conduct is sufficient as written and implemented in the primary grades. However, Merrick has yet to create the kind of culture at the upper grades that promotes academics with consistency.

Of note as well, the school's arts program boasts some of the finest instruction observed during the renewal visit. Providing students with an opportunity to learn pride in the production and performance of the arts and to support their community through displays and performances, Merrick Academy's arts program not only draws the community into the school, but expands the knowledge, skill, and depth of understanding for the humanities in its students.

## 2. Is the School an Effective, Viable Organization?

*Finding 1: Parents are strong and articulate supporters of the school. The school's nurturing culture and expectations are valued and actively supported by Merrick's parents. Strong parent-school communication results in a common focus on student academic success.*

*Finding 2: The school's instructional staff appears qualified to implement its program as envisioned in the charter. The school has rightly identified the need to provide additional, classroom-based professional development that will permit a more rigorous instructional program and in turn fulfill its mission of becoming one of the finest public schools in America.*

*Finding 3: Based on evidence to date and a review of relevant policies, Board minutes and interviews, the school appears to have been, and presently appears to be, generally in substantial compliance with applicable laws, rules and regulations, and the provisions in its charter.*

Merrick Academy - Queens Public Charter School continues to benefit from the leadership of a majority of members of its founding Board and its founding Principal. Through the leadership of the Board and the Principal, the school has successfully worked with their educational management company, Victory Schools, to build not only an instructional program, but to create a facility suitable to the school's needs. Merrick Academy has been in substantial compliance with applicable laws, regulations and

charter provisions as required under state law. The school is fully enrolled and boasts a waiting list of 110 percent of its total enrollment, with the parents of 510 children hoping to enroll their child in Merrick Academy.

As noted above, the school's curriculum changes necessitate the need for increased instructional abilities on the part of classroom teachers, especially at the upper grades. Merrick Academy's Principal has worked with the professional development staff provided by the school's educational management company, Victory Schools, to provide teachers with opportunities to increase their instructional skills. While this arrangement was sufficient in the early years of the school's charter, the instructional demands of upper elementary and lower middle school grades, as well as a new curriculum, necessitate a stronger professional development program at the school. Merrick Academy's Principal and Board of Trustees has determined that to produce a teaching staff that has the skills, knowledge and abilities to facilitate the Academy's mission to become one of the finest public schools in America, additional instructional leadership focused on the upper grades is required. The school has rightly determined they must create an additional leadership position focused specifically on raising the rigor of instruction at the upper elementary/early middle school grades.

### 3. Is the School Fiscally Sound?

*Finding 1: Throughout the life of its charter, the school has consistently and in a timely fashion met its financial reporting requirements and maintained appropriate internal controls. Additional controls and process improvements continue to be developed.*

*Finding 2: The Board has not fully implemented effective financial oversight. The Board has provided adequate financial oversight during the term of its first charter.*

*Finding 3: The school's financial condition has been generally weak but stable. While the school has not always operated on a balanced budget, it has never experienced an operating cash shortfall.*

Over the life of the Merrick Academy charter, the Board has provided adequate financial oversight and has posted evidence of making decisions that further the school's mission, program and goals. The Board has recently begun to strengthen that oversight through the creation of a finance committee, but that committee has yet to maximize its role. The Board's finance committee is developing new policies and procedures that provide an increase in oversight. The school operates pursuant to a long-range fiscal plan and has produced realistic budgets over the term of the charter. The school has never experienced an operating cash shortfall due

to an agreement with Victory Schools whereby a portion of the management and central service fees are deferred.

The school has generally complied with financial reporting requirements and submitted annual financial statement audit reports with unqualified opinions indicating that the school's financial statements fairly represent its financial position. Reports have been complete and the school has followed generally accepted accounting principles.

**4. What Are the School's Plans for the Renewal Period and Are They Reasonable, Feasible and Achievable?**

*Finding 1: Merrick Academy - Queens Public Charter School has submitted academic plans for the term of the next charter that include expansion to a full middle school, grades Kindergarten through eight. While the program as written is complete, both the available quantitative data (which is limited) and the qualitative evidence gathered during the renewal process indicate that the school has yet to create a consistent culture of rigorous instruction in the upper grades and does not have in place the appropriate supports to make the rapid improvement that the school will need to make in order to establish a highly successful middle school.*

*Finding 2: Critical to the success of children in grades four and above will be the school's ability to increase instructional consistency and rigor. While the written plans that were submitted in spring 2004 are feasible, the beginning implementation of the plans as observed in December 2004 do not give the Institute confidence that the plans, as carried out, are achievable.*

*Finding 3: The school's future plans continue Merrick Academy's current governance structure. The Board of Trustees will continue to contract with Victory Schools to provide education management services. The school's founding Principal plans to continue to provide school leadership and add a curriculum expert to champion classroom-based teacher professional development on a daily basis. The Institute's analysis shows that these plans are reasonable, feasible, and achievable.*

*Finding 4: The school has provided a reasonable and appropriate five-year fiscal plan for the term of a future charter.*

Merrick Academy - Queens Public Charter School has presented a written curriculum plan for the term of the next charter that is reasonable and feasible. The curriculum meets state performance standards. In addition, the school has presented an assessment plan that is feasible and reasonable. The school has also determined that the level of instructional rigor, especially in the upper elementary/early middle school years has yet

to reach the level required to become one of the finest public schools in America, a conclusion that the Institute verified in its renewal visits. As such, the school has identified the need for additional instructional leadership. As part of its application, the school submitted plans to meet that need, and the Board indicated during the renewal visit that, as the school would in be teaching both fifth and sixth grade, commencement of implementation would not wait for the new renewal term but would begin in the 2004-05 school year (the school's fifth year of its charter).

While the plans as written are sufficient, the Institute cannot find that they are likely to be achievable.<sup>12</sup> The Institute's concerns are the result of the following factors and evidence.

First, while the data is limited and ambiguous, it raises concerns about the present level of instruction in the upper grades. In particular, the fifth grade in 2003-04 performed extremely poorly on the New York City fifth grade math assessment (10 percent proficient), though not on the corresponding English Language Arts assessment; so, too, performance of fourth graders on the fourth grade New York State English Language Arts assessment declined as well. Moreover, the value-added data that the school has posted does not indicate a positive trend.

Second, evidence in the upper grades that the Institute gathered during the renewal visit in spring 2004 and subsequent one-day visit in December 2004, raise significant concerns about the strength of the program in fifth and sixth grades. As indicated in the findings to Questions 1 and 2, Merrick currently faces significant challenges in strengthening the rigor of its instruction and in creating a more rigorous school culture and classroom environment. This work will take substantial time, energy and resources that will overtax the present personnel, supports and structures that the school has in place and apparently plans to have in place.

Third, the beginning steps that the school has taken to improve and strengthen instruction in the upper grades in the 2004-05 school year (the school's fifth year of its charter) are inadequate and ineffective—and give no basis for providing confidence that the plan, once fully implemented, will result in the necessary significant improvements. In particular, the school still does not have an effective and substantial structure for providing instructional leadership to teachers in the upper grades. Moreover, the school has chosen to hire an inexperienced team of

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<sup>12</sup> The Accountability Plan as submitted in the renewal application is generally reasonable and feasible; however certain additional measures may be required in order to take account of changes in the New York State's testing regimen or revisions to the Institute's Accountability Plan Guidelines. In such cases, these additional measures will be added either prior to the execution of a new proposed renewal charter or thereafter.

teachers, who will make implementation of the school's plans to better its program that much more difficult.

In regards to its continued association with its present management partner, the Board of Trustees at Merrick Academy has submitted plans to continue the school's contract with Victory Schools for the provision of education and business management. The Board has recently increased the level and rigor of its oversight of Victory Schools. The Institute finds these plans to be reasonable, feasible, and achievable.

Regarding its fiscal status, at the end of this charter period, the school is in a stable but weak financial position attributable to facility constraints which limited the school's enrollment and expansion. The Institute finds that the school's financial position during the term of a future charter should stabilize and strengthen assuming the continued demand for enrollment in the school.

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## RENEWAL BENCHMARKS

**Evidence  
Category**

**Benchmarks**

### **Renewal Question 1**

#### **Is the School an Academic Success?**

<b>Benchmark 1A</b>	<b>1A.1.1</b>	<b>Absolute Measures (New York State Assessments): The school meets or has made meaningful and consistent progress towards meeting the outcome measures contained in its Accountability Plan over the term of the school's charter.</b>
<b>Academic Attainment &amp; Improvement</b>	<b>1A.1.2</b>	<b>Comparative Measures: The school meets or has made meaningful and consistent progress towards meeting the outcome measures contained in its Accountability Plan over the term of the school's charter.</b>
	<b>1A.1.3</b>	<b>Value Added Measures: The school meets or has made meaningful and consistent progress towards meeting the outcome measures contained in its Accountability Plan over the term of the school's charter.</b>
	<b>1A.1.4</b>	<b>NCLB Measure: The school has made adequate yearly progress as required by NCLB.</b>
	<b>1A.1.5</b>	<b>Unique Academic Measures: The school meets or has made meaningful and consistent progress towards meeting the outcome measures contained in its Accountability Plan.</b>

#### ***Academic Attainment & Improvement***

Merrick Academy - Queens Public Charter School has generally met its academic outcome measures on state examinations. Where it has not met them, its progress has been mixed. These results are based on somewhat limited data insofar as it has administered state examinations in only the last two years of its four years of operation.

In its absolute level of performance on the fourth grade state examinations, Merrick has for the most part met the criterion of success set in its outcome measures. In 2002-03, the school met its absolute objectives on all three state examinations for fourth graders. In

2003-04, Merrick met its math and science objectives, but did not meet its ELA objective.

In its comparative level of performance on the fourth grade state examinations, Merrick has mostly outperformed in ELA the similar schools in Community School District (CSD) 29 it identified in its Accountability Plan. It scored higher than two of the three comparison schools scored, and about the same as the third school scored, on the ELA examination in both 2002-03 and 2003-04 and on the science examination in 2002-03. In the case of math, it outperformed one of the comparison schools in 2002-03, but none of the schools in 2003-04. Merrick's ELA and math performance in comparison to CSD 29 follows the same pattern as that of the similar schools: better in ELA and not as good in math.

Results have been mixed on the value-added to student learning according to spring to spring cohort gains on the ITBS Test. In Total Reading, the average score of each cohort from spring to spring declined in the three years for which results can be calculated.<sup>13</sup> In Total Math, the average score of each cohort from spring to spring declined in the first two years and increased substantially in the third year such that the school exceeded the goal of its value-added math outcome measure in 2003-04.

The State Education Department has deemed Merrick to be a *Charter School in Good Standing*, which indicates that the school has not failed to make adequate yearly progress for two successive years under the NCLB requirements. Merrick did not include any unique outcome measures in its Accountability Plan.

Overall, the results indicate that most Merrick students are being prepared for middle school by virtue of the proportion who are scoring proficient on the fourth grade state examinations. Merrick students have generally performed better than comparison schools, especially in ELA. Merrick results on the New York City third and fifth grade ELA examination are consistent with these strong comparative ELA results on the state examination. These results indicate that the academic program has had some success; however, the value-added data also show that the instructional program has not enabled students to make consistent progress across the grades in reading.

The math results show that Merrick has begun to make progress toward achieving the value-added outcome measure for math. Students in the third and fourth grades made substantial gains on the ITBS test.

#### ***Accountability Plan Goals***

In its Accountability Plan, Merrick Academy - Queens Public Charter School set outcome measures to demonstrate its academic success in the key subjects of English Language Arts (ELA) and mathematics, as well as science and social studies. The outcome measures include the following three required types: 1) the absolute level of student performance on state examinations; 2) the comparative level of student performance on state examinations; and 3) the value-added to student learning according to year-to-year comparisons of student cohort performance on a school-selected

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<sup>13</sup> In its renewal application, Merrick reports a gain in the average score of cohorts when calculating fall to spring results within the same school year. Typically, fall to spring gains are greater than those for spring to spring, because of a summer fall-off in scores and initial unfamiliarity with the test. In order to track students' achievement more seamlessly over time, longitudinal comparisons from spring to spring are preferred.

standardized test. The following tables indicate the specific outcomes Merrick set for itself accompanied by its annual results.<sup>14</sup>

In addition to being held to these accountability measures, Merrick is expected, under No Child Left Behind (NCLB), to make adequate yearly progress toward enabling all students to score at the proficient level on the state ELA and math examinations. In holding charter schools to the same standards as other public schools, the state issues a school accountability report. Merrick's accountability status in the most recent report is indicated below.

Finally, other outcome measures, besides the three required ones, are presented.

*Absolute Level of Performance on State Examinations*

Accountability Plan		Results				
Subject	Outcome Measure	Grade	School Year			
			2000-01	2001-02	2002-03	2003-04
ELA	The Academy's "Performance Index" (SPI), calculated to include only those students enrolled for two or more years, will meet or exceed State Standard, SPI = 150, during each year of the charter.	4	No students in grade	No students in grade	163	143
Math	The Academy's "Performance Index" (SPI), calculated to include only those students enrolled for two or more years, will meet or exceed State Standard, SPI = 150, during each year of the charter.	4	No students in grade	No students in grade	156	153
Science	The Academy will meet or exceed all State Standard: 40 percent of students will score at state designated mastery level	4	No students in grade	No students in grade	63.0	74.3%
Social Studies	The Academy will meet or exceed all State Standard	5	No students in grade	No students in grade	No students in grade	N/A

<sup>14</sup> Please note: since Merrick has had a fourth grade for two years, it administered the state examinations for the first time in 2002-03. Social studies and science test scores are not available for 2003-04. As 2001-02 was the school's first year of operation, there are no value-added cohort results for that year.

*Comparative Level of Performance on State Examinations*

Accountability Plan		Results					
Subject	Outcome Measure	Grade	Comparison	School Year			
				2000-01	2001-02	2002-03	2003-04
ELA	A greater percentage of Academy students enrolled in the school for two or more years will perform at or above Level 3 than will students at Similar Schools.	4	Merrick	No students in grade	No students in grade	68.8%	53.0%
			PS 134			40.0%	33.8%
			PS 135	N/A	N/A	68.9%	55.7%
			PS 136			44.9%	41.6%
			CSD 29 *			54.1%	49.2%
Math	A greater percentage of Academy students enrolled in the school for two or more years will perform at or above Level 3 than will students at Similar Schools.	4	Merrick	No students in grade	No students in grade	62.5%	59.4%
			PS 134			48.5%	60.9%
			PS 135	N/A	N/A	69.7%	73.1%
			PS 136			67.2%	62.6%
			CSD 29 *			66.3%	67.1%
Science	A greater percentage of Academy students enrolled in the school for two or more years will perform at score at state designated mastery level than will students at Similar Schools.	4	Merrick	No students in grade	No students in grade	67.0%	74.3%
			PS 134			42.0%	
			PS 135	N/A	N/A	71.0%	
			PS 136			40.0%	
			CSD 29 *				63.2%
Social Studies	A greater percentage of Academy students enrolled in the school for two or more years will perform at or above Level 3 than will students at Similar Schools.	5	Merrick	No students in grade	No students in grade	No students in grade	N/A
			PS 134				
			PS 135	N/A	N/A	N/A	N/A
			PS 136				
			CSD 29 *				

\* The results for the district are presented as an additional comparison; it is not included in the Accountability Plan.

*Value-Added to Student Learning According to Spring-to-Spring Cohort Gains*

Accountability Plan		Results				
Subject	Outcome Measure	Grades	School Year			
			2000-01	2001-02	2002-03	2003-04
Reading	Each cohort of Academy students will improve their reading skills by an average of 3 percentiles per year in national rank, according to the reading battery of the Iowa Test of Basic Skills (ITBS). Cohorts will include the scores of all eligible students in grades K-6. (Results reported in NCEs)	All	N/A	(-6.5)	(-4.9)	(-2.6)
Math	Each cohort of Academy students will improve their math skills by an average of 3 percentiles per year in national rank, according to the reading battery of the Iowa Test of Basic Skills (ITBS). Cohorts will include the scores of all eligible students in grades K-6. (Results reported in NCEs)	All	N/A	(-8.7)	(-7.3)	4.9

*Adequate Yearly Progress as Required by NCLB*

The State Education Department's School Accountability Report states Merrick's 2003-04 School Accountability Status: *Charter School in Good Standing*, which indicates that the school has not failed to make adequate yearly progress for two successive years

*Student Achievement According to Unique Academic Measures*

The school had no additional academic outcome measures in its Accountability Plan.

**Benchmark 1B      1B**  
**Use of Assessment Data**

**The school effectively and systematically uses assessment and evaluation data to improve instructional effectiveness and student learning.**

A school that fully meets this benchmark will have put in place during the life of the charter a system for the effective use of assessment data. Such a system would include at least the following elements.

- the collection and analysis of student performance data, including data gathered from an analysis of student work pursuant to a set of well-defined and well-aligned standards;
- the use of assessment instruments and data to determine accurately whether State performance standards and other academic goals are being achieved;
- the use of assessment data to make changes and improvements, where the data indicates a need, to curriculum and instruction;
- the regular communication between teachers and administrators of assessment results and a common understanding between and among teachers and administrators of the meaning and consequences of those results; and
- the regular communication to parents of assessment data to assist them in their efforts to improve student learning and achievement.

More generally, a school should be able to demonstrate a system where performance standards, instruction, required student work and assessments are integrated and have led to increased student knowledge and skills.

The school's original curriculum design utilized Direct Instruction for both reading and mathematics. Implementation of Direct Instruction<sup>15</sup> curriculum includes a prescribed series of individual student assessments that track students' attainment of knowledge and skills as they progress through a series of lessons. During the early years of its charter, Merrick Academy used this system of assessments to track student progress toward academic goals. Student performance on the Direct Instruction assessments was recorded, aggregated, and analyzed by staff with assistance from curriculum experts from the school's education management company, Victory Schools. Using the data from this internal assessment system, student performance data generated by the use of teacher-developed rubrics, and data in the SchoolWorks, LLC report from the Charter Schools Institute in the third year of its charter, the school analyzed its curriculum model and made the modifications noted above.

Though limited in its scope, the school's previous curriculum did provide a ready-made internal assessment system. The shift away from the previous curriculum and system of assessments requires Merrick Academy to build its own system of internal assessments

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<sup>15</sup> Information on the Direct Instruction curriculum can be found at the National Institute for Direct Instruction's web site: <http://www.nifdi.org/>.

that provide reasonable and reliable indications of progress toward state standards. The school has yet to create and implement such a system.

At the time of the renewal visit, virtually all of Merrick Academy's teachers provided evidence that the school has set in place a set of disparate assessment strategies. Teachers provided records of classroom student achievement which most used to facilitate the creating of student achievement reports or report cards. This data is entered into an Excel spread sheet and provided to the Principal on a monthly basis. This "Excel Grid," as it is termed by the teachers, includes standardized, teacher-developed, and curriculum unit test scores as well as rubric scores and data on the completion and correctness of homework assignments. While teachers and the Principal report that it is used to monitor individual student performance for possible placement in the school's Title I program, there is no evidence that it is used, discussed and analyzed on a regular basis to assess the effectiveness of the school's instructional program.

The school has also begun development of an internal system of assessment that relies on the use of rubrics.<sup>16</sup> A rubric is a scoring guide that lists the expected quality of student work or the attributes by which a student's work will be evaluated. For example, a rubric used to evaluate a piece of student writing would typically include a list of clear expectations regarding the level of proficiency required in the mechanics of writing – *i.e.*, punctuation, capitalization – and levels of skill for creativity, persuasiveness, *etc.*

The key features of a strong internal assessment system that uses rubrics to gauge student achievement include external and internal alignment of expectations for student work products to the goals students must ultimately achieve – in this instance – the state performance standards. Also critical is a clear progression of difficulty and complexity in what is expected from Kindergarten to first grade, and then to second grade, continuing up through each grade level served at the school. Institute visitors did not find such alignment in Merrick Academy's internal assessment system in place at the time of the renewal visit.

Rubrics used for the analysis of student work in any subject are only beneficial to the extent that they reflect what is required in state standards and incite students to achieve at the expected level of performance. After examination of student work and interviews with the school's staff and administration, Institute visitors found little evidence that the rubrics developed and used at Merrick Academy are linked to and are reflective of the expectations demanded of students by the New York State performance standards.

Administration and staff at the school agreed that the school's development of a system of internal assessments that reflect the demands of state standards were in a nascent stage of development. The Principal plans to provide staff with training during the summer of 2004 with the hopes of implementing a full portfolio system during the 2004-05 school year. However, at the time of the renewal visit, staff and administrators were unable to clearly articulate the necessary components of a strong system of internal assessments. Critical to its development at Merrick Academy will be direct and obvious connections to what is required in New York State's performance standards as well as a clear progression of expectations from grade to grade. Equally as important, and not currently evident at the school, is the consistent application of common, high expectations for student work from teacher to teacher within grade level teaching teams and across all grade levels at the school.

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<sup>16</sup> Sources for additional information as well as research on the use of rubrics include the Association for Supervision and Curriculum Development ([www.ascd.org](http://www.ascd.org)) and Phi Delta Kappa ([www.pdkintl.org](http://www.pdkintl.org)).

**Benchmark 1C**

**Curriculum**

**1C**

**The school has a clearly defined quality curriculum that prepares students to meet State performance standards.**

The school that meets this benchmark has defined with precision the essential knowledge and skills that all students are expected to achieve (and that are aligned with the relevant State standards) and makes them a priority within the curriculum. Course offerings and outlines reflect those priorities. The curriculum as implemented is organized, cohesive, and seamless from grade to grade.

As documented in annual visit reports generated over the life of the school's charter, Merrick Academy has implemented a defined curriculum – a set of essential knowledge and skills - that students are expected to achieve. This curriculum included Direct Instruction in both reading and mathematics and the use of Core Knowledge to supplement in the areas of world and United States history, literature, and science. To enhance instruction in English Language Arts, the school also implemented a balanced literacy approach that includes challenging literature selections as well as focused writing instruction.

Despite initial success with this curriculum, in the third year of the school's charter the Principal, Board, and staff examined data on student achievement and determined the use of Direct Instruction for reading and mathematics instruction was beneficial to some students but did not provide the desired challenge or rigor of material necessary to prepare students to meet state standards. As such, the school reviewed possible curricular options and chose to supplement the Direct Instruction curriculum with the use of Scott Foresman reading materials and the University of Chicago's Everyday Mathematics Program. While Direct Instruction strategies and materials are still used to provide foundational skills to students who require additional assistance, the school has begun to implement the new reading and mathematics curriculum.

This new curriculum for grades Kindergarten through five, as set forth in the application, includes a balanced literacy approach comprised of the following elements:

- a two and one-half hour block of instruction in English Language Arts for all students,
- the Scott Foresman Reading Program,
- the readers' and writers' workshop from the National Writing Project and the Great Source Writing Program,<sup>17</sup>
- the use of children's literature books to augment the Scott Foresman Reading Program,
- new student pre-assessment using ITBS and/or another screening program,
- unit and end-of-year tests, and
- a phonics and phonemic awareness program to support basic reading skills.

While this program was generally observed to be in place during the June three-day renewal visit, during the December follow-up visit, the schedules for fifth grade did not indicate that there was a two and one-half hour block in English Language Arts instruction; nor was such instruction observed. Rather students had a fifty-five minute period in the morning and an additional hour of writing instruction per week.

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<sup>17</sup> Additional information on the National Writing Project can be found at <http://www.writingproject.org>. Information on the Great Source Writing Program is available at [www.gswp.org](http://www.gswp.org).

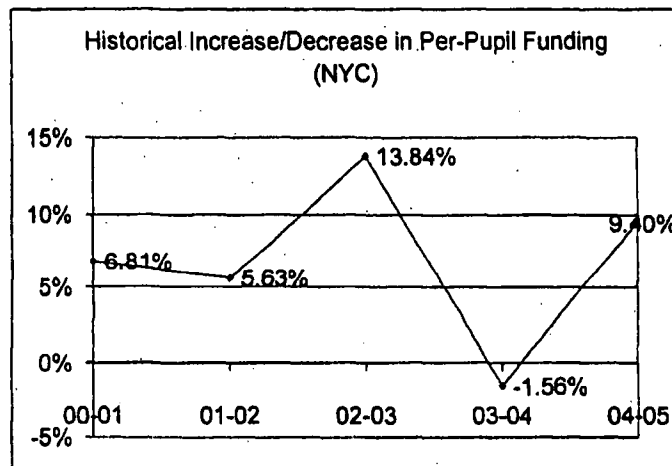
In its original charter application, Merrick Academy included an arts-based enrichment program which targeted students at-risk of academic failure. The school looked to "offer children an opportunity to broaden their intellectual horizons and to participate in art, dance, and music.... in a way usually only available to children in economically affluent school districts." Merrick Academy has implemented this program and it is staffed by local artists who provide an enriching and engaging arts experience for students.

Original works of art and photography provided by the arts staff and generated by students are displayed beside more traditional written work creating a festive and welcoming atmosphere in the school's public areas. In addition to arts-related field trips that attract almost as many parents as students, the school hosts frequent performances by students and community artists. One classroom is crowded with electric keyboards where students learn to play the piano. The school's cafeteria doubles as a dance studio. Arts instruction observed during the renewal visit was vibrant, purposeful, and fully engaged all students.

The exceptional instructional abilities of the dance teachers created energetic and productive class periods where all students participated, practiced, and mastered intricate dance moves. Inspectors noted that the dance teachers displayed some of the best classroom management *and* instructional skills of all lessons observed during the renewal visit. These teachers spoke the plain language of good behavior to students and corrected students' spoken grammar in a manner that set high expectations for behavior and thinking. These teachers' skills serve as models for teachers charged with delivering academic instruction.

reasonableness of the plan. On the expense side, the assumptions made in the school's application are a bit simplistic but are not considered unreasonable. One exception, as noted above, is the failure of the plan to incorporate one of the stated narrative assumptions (related to employee benefits) into the actual financial plan. Also, the application provides no discussion of assumptions or plans related to the projected capital outlays for furniture and fixtures, computers and leasehold improvements. Assuming the school remains at its current facility, the amounts budgeted for these items do appear reasonable.

The school's projected three percent annual increase in per pupil revenue is considered reasonable given its low starting assumption base. While there is degree of uncertainty related to these projected increases, they are less than the historical average increase over the life of the school's charter (6.9 percent). The chart below shows the historical per-pupil increases over the life of the school's charter.



Source: State Education Department

CSI chartered schools that have partnered with Victory Schools, including Merrick, have not yet established a consistent record of obtaining positive changes in net assets from year to year. This remains a challenge that the Merrick Board needs to focus on going forward. The fiscal plan provided projects that the school will eliminate its net asset deficiency by the third year of the proposed new charter. The plan is likely achievable assuming the continued demand for enrollment in the school.

**Benchmark 4C**  
**School Calendar & Enrollment**

**4C**

**The school has provided a sample school calendar that includes the number of days and proposed daily hours of instruction. Additionally, the school has provided an enrollment plan outlining the grades and growth patterns it anticipates during the term of a future charter.**

The plans are reasonable, feasible and achievable.

The school has submitted future enrollment plans for the term of a future five-year charter. The school plans to grow to a maximum enrollment of 567 students in grades Kindergarten through eight in the 2006-07 school year and to maintain that grade structure and enrollment levels through the remaining years of a five-year charter (2009-10).

Subject to the Institute's final recommendation and the State University of Trustee's vote as to grade levels to be served and length of the renewal charter, the school's plans are reasonable, feasible, and achievable.

**Benchmark 4D**  
**Fiscal & Facility Plans**

**4D**

**The school has provided a reasonable and appropriate five-year fiscal plan for the term of a future charter.**

The school has provided a fiscal plan that includes a discussion of how future enrollment and facility plans are supported and/or impacted by the school's fiscal plan for the term of its next charter. In addition, fiscal plans provided for a future charter term reflect sound use of financial resources that support academic program needs.

Long-range fiscal projections are more susceptible to error than those for a single year. These projections are subject to revision due to changes in local conditions, objectives, and laws. Regardless of the assumptions embedded in the fiscal projections, the school will be required to develop and adopt annual budgets based on known per pupil amounts. The actual financial results for the 2003-04 school year indicate that while the school's net asset deficiency increased, it remained manageable at seven percent of expenses. The school remained stable with a small decrease in cash (\$4,934) during the year. The school was able to decrease the amount it owes to its management company by \$169,724 and invest in the purchase of property plant and equipment totaling \$125,332.

The school's financial plan projects an increasingly strong financial position over the proposed renewal charter period. Major assumptions include enrollment growth to 525 students, enrollment at 97 percent of capacity, a contingency (reduction of planned amounts) related to revenue each year beginning at \$28,611 and increasing to \$33,812 (similarly there is an expense contingency in equal amounts), growth for each revenue category of three percent per year, expenses increasing proportional to student growth with three percent annual inflation. The application narrative also states that benefit and insurance costs are projected to increase by 10 percent per annum, however the financial plan does not reflect this increase in benefit costs. This variance does not have a material impact on the school's overall fiscal plan.

The revenue assumptions in the school's financial plan are conservative. Just prior to the submission of the school's application, the per pupil aid amount was increased by 11 percent versus the three percent projected by the school. This strengthens the overall

However, as noted elsewhere as well, during the follow-up renewal visit of December 2004, it was clear that the school had yet to find an instructional leader in the upper grades, a position especially in need in light of the inexperience of the fifth and sixth grade staff. At present the school's Principal is the designated instructional leader. While she is an excellent administrator and building leader, she has little experience or record of success in the grades she is directly overseeing; moreover, her present building-wide administrative duties leave her far too busy to concentrate the needed resources and attention on the struggling upper grades. Moreover, the school has made its plans for effective implementation far more difficult than they need to have been given the inexperience of the staff, for example:

- One teacher with two years previous *elementary* school experience,
- One teacher with two and a half years experience, with only one year of fifth grade experience,
- One first year teacher,
- One teacher with one year experience, and
- One teacher with two and half years experience.

All of these fifth and sixth grade teachers, as set forth in detail, *supra*, require significant professional development and mentoring that the school does not have in place.

Given the teacher inexperience, it is far from clear that the school can implement the lead teacher structure that the application envisions. Equally important, the evidence gathered during both visits indicated that the school had yet to institute a consistent culture of rigorous instruction – particularly in the upper grade levels, that would provide a basis to find that the plans that are presented will be implemented effectively.

**Benchmark 4B**  
**Accountability Plan**

**4B**

**The school has provided a draft Accountability Plan that defines the school's measurable goals for the term of a future charter.**

The school's proposed Accountability Plan follows the guidelines set forth by the Institute and presents an accountability system that is reasonable, feasible, and achievable.

The school has submitted a draft Accountability Plan that is largely in line with the demands of the Institute's Accountability Plan guidelines. The Institute will, based upon the final renewal recommendation and vote of the State University Trustees, work with Merrick Academy - Queens Public Charter School to finalize the school's Accountability Plan goals and measures and will codify it in any final renewal charter document.

The Accountability Plan as submitted in the renewal application is generally reasonable and feasible; however certain additional measures may be required in order to take account of changes in the New York State's testing regimen or revisions to the Institute's Accountability Plan Guidelines. In such cases, these additional measures will be added either prior to the execution of a new proposed renewal charter or thereafter.

- Life Science, Earth Science and Physical Science aligned to New York State performance standards using as a major text the Glencoe/McGraw Hill science textbook series.
- The school plans to extend the use of the Core Knowledge Scope and Sequence used in Kindergarten through fifth grades.

As presented in the renewal application, the curriculum for the upper and lower grades proposed for the term of a future charter contains an appropriate level of rigor and depth to enable students to succeed in meeting the New York State performance standards for grades Kindergarten through five. More generally, research on the effectiveness of the school's Kindergarten through fifth grade mathematics curriculum (Everyday Mathematics) shows some evidence of its ability to increase student achievement on state tests in Massachusetts, Pennsylvania, Illinois and Florida.<sup>21</sup> This research is tempered, however by the findings in studies reported by New York University that students experiencing mathematics instruction using the Everyday Mathematics curriculum should receive supplemental instruction in learning and memorizing the algorithms (basic mathematical operations and facts) critical to computational and problem solving success.<sup>22</sup>

While the curriculum as written is sufficient, the ability of the school to implement the curriculum design effectively, especially in the upper grades, is called into question by the quantitative and qualitative evidence the Institute has gathered. In regards to the outcome data, ITBS outcomes indicate a decline in student performance year-to-year, a trend echoed across cohorts when comparing performance in 2002-03 and 2003-04 on the fourth grade exams. Finally, the performance of the fifth graders in 2003-04 on the New York City math exam was very low (10 percent), though it was on par with the district on the ELA test. Given the small number of students, the difficulties in making cross-cohort comparisons and the limited data generally, caution should be exercised in drawing conclusions. Nonetheless the data are not positive.

In addition to the outcome data (and consistent with it), the Institute has amassed qualitative evidence that the school's program in the lower grades is generally sound, though still facing significant challenges if academic achievement is to continue to improve. In the upper grades, the problems regarding the instructional effectiveness, professional development, and the curriculum as it is implemented are more systemic and profound (see Benchmarks 1B, 1C, 1D.1-3, 1E, 1G.1-3).

To some degree, the application, which was filed with the Institute during the School's fourth year, recognizes the challenges that Merrick is facing. So, too, the Board provided plans to create new supports, especially in the upper grades, beginning in the fall of 2004. These included a full-time staff developer/instructional leader for the upper grades and a new staffing structure that includes the designation of one "lead teacher." The lead teacher will work with the grade-level team in the areas of professional development, instructional delivery strategies and classroom management techniques. The lead teacher will model and coach other teachers, ensure that grade-level meetings occur and that information is shared through notes and/or other methods. It is the intent of the school to use this structure to assist in raising the instructional capacity of the school's teaching staff. At the time of the renewal visit, grade-level teachers informally met during their common lunch times or during prep periods to discuss pedagogical and curricular issues and to provide support for each other. The lead teacher would be certified and possess special instructional skills and abilities.

<sup>21</sup> This research was conducted and reported by S.R.A. International, the publisher of Everyday Mathematics, and was downloaded on December 5, 2003 at:  
<http://www.sraonline.com/index.php/home/curriculum/solutions/mathematics/emfirstedition/studentachievement/729>

<sup>22</sup> See [www.math.nyu.edu](http://www.math.nyu.edu)

## Renewal Question 4

### Should the School's Charter Be Renewed, What Are Its Plans for the Term of a Future Charter?

**Benchmark 4A**  
**Curricular &  
Assessment Plans**

**4A**

**The school's curriculum and assessment plans for the term of a future charter are reasonable, feasible, and achievable and are likely to improve student learning and achievement.**

Schools that plan to retain or augment curricular and assessment designs presented in the original charter application have provided evidence that the implementation of that design has resulted in academic success during the term of the existing charter.

Schools that propose a material redesign to the curriculum and assessment plans for the term of a new charter have clearly articulated the new design, provided research and evidence that the proposed new design will result in the increased academic performance of children, and a plan and timeline outlining the implementation of the new curricular design. These plans are likely to improve student learning and achievement and are reasonable, feasible and achievable.

Schools that seek to add grade levels not included in the approval of the original charter have presented an outline of the curriculum and specific assessment plans for the term of a future charter. These plans are likely to improve student learning and achievement and are reasonable, feasible and achievable.

In its application for charter renewal, Merrick Academy - Queens Public Charter School proposes a school that will grow to serve approximately 570 students in the Kindergarten through eighth grades and presents enrollment and curriculum designs for a new charter term.

For grades Kindergarten through five, the school proposes to continue to utilize the curriculum, assessments and other components of its current educational program (see benchmarks 1B, 1C). The English Language Arts and mathematics curricula for those grades are a continuation of the curriculum piloted during the 2003-04 school year (fourth year of the charter). For grades six through eight, the school's proposed educational program contains the following elements:

- English Language Arts that includes balanced literacy through the use of the Junior Great Books Program,<sup>20</sup> readers and writers workshop as designed by the National Writing Project and the Great Source Writing Program, new student assessments using the ITBS and/or other screening program, unit and end of year tests, a phonics component.
- Impact Mathematics: Algebra and More Program which is consistent with the goals of the federal No Child Left Behind program, aligns with New York State performance standards and completes a full year of algebra by the end of eighth grade.

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<sup>20</sup> Information on Junior Great Books is available at <http://www.greatbooks.org/>.

school has commitments under noncancelable leasing arrangements for facilities of \$412,500 for fiscal year 2005.

Victory Schools is paid a fee of 22 percent of the total revenues for management (seven percent) of the school and central services (15 percent). Victory has allowed the school to repay some of its fees on a long-term basis. Victory will accept payment of these deferred management fees when the school is able to pay. If this relationship were to change or cease, such change could have a substantial effect on the school's ability to continue operations.

**Benchmark 3D**  
**Financial Reporting**

**3D**

**The school has complied with financial reporting requirements. The school has provided the State University Board of Trustees and the State Education Department with required financial reports on time, and such reports have been complete and have followed generally accepted accounting principles.**

The school has generally met financial reporting requirements. The annual financial statements, budget, and quarterly financial reports were generally filed on time with a few exceptions that occurred in the first two years of its charter. The school's annual financial statement audit reports have all had unqualified opinions thus far. An unqualified auditor's opinion on the financial statements indicates that, in the auditor's opinion, the school's financial statements and notes fairly represent, in all material respects, the financial position, changes in net assets and its cash flows in accordance with generally accepted accounting principles.

All statements required by generally accepted accounting principles were included in the school's financial statements. However, for its first three years neither the financial statements nor the notes to the financial statements presented information about expenses by their functional classification, such as major classes of program services and supporting activities. Such presentation is required by Financial Accounting Standards Board (FASB) Statement No. 117 (*Financial Statements for Not-for-Profit Organizations*). Financial statements for the year ended June 30, 2004 did include this required information.

**Benchmark 3E**  
**Financial Condition**

**3E**

**The school has maintained adequate financial resources to ensure stable operations and has monitored and successfully managed cash flow. Critical financial needs of the school are not dependent on variable income (grants, donations and fundraising).**

The school completed the 2003-04 school year in weak but stable financial condition. The school had an operating deficit of \$95,782 and finished with a net asset deficiency of \$251,164 (\$628 per enrolled student). The school had negative changes in net assets in three of its first four years. While the school experienced a positive change in net assets for 2001-02 school year (\$268,713), it was significantly aided by the receipt of federal, state, and city grants totaling \$725,000 in that year.

During the renewal visit, Victory Schools made the case that the financial status of the school has and will continue to closely track the capacity utilization of its facility. In years when the school has expanded by more classrooms than they filled with new students, they have a down year. Then, when the school is at full capacity, it has improved financial results.

Except for a contribution of \$192,000 for start-up expenses received from Victory, the school has not reported any other financial contributions indicating that it was not dependent on variable income for its financial needs.

The school has fixed assets (net of accumulated depreciation and amortization) totaling \$1,374,257 that consist of primarily leasehold improvements at its current facility. The school has long-term debt payable to Victory Schools totaling \$560,680 (final payment is due June 1, 2010, interest accrues at 9.75 percent). The school also owes Victory \$989,253 related to deferred management and central services fees. In addition, the

the cash flow projections to provide a more accurate depiction of actual cash flows. Ten-year fiscal projections, prepared by the Victory Schools, are evidence that long-range plans have been developed.

**Benchmark 3C**  
**Internal Controls**

**3C**

**The school has maintained appropriate internal controls and procedures. Transactions have been accurately recorded and appropriately documented in accordance with management's direction and laws, regulations, grants and contracts. Assets have been and are safeguarded. Any deficiencies or audit findings have been corrected in a timely manner.**

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.

A State Education Department fiscal review conducted in February 2003 noted only one area in which the school's policy and procedures were inadequate. The school lacked a finance committee at that time. A committee has since been established (September 2003), although it is not fully functioning.

Victory Schools has developed extensive fiscal policies and procedures and has compiled them into a school-level accounting manual that was adopted by the school. Based on interviews with school and Victory Schools staff and review of documentation, the school has established the processes and controls related to payroll, procurement and safeguarding of assets.

Victory Schools received a management letter in conjunction with the school's audit for the year ended June 30, 2003. The letter included recommendations from the auditors concerning certain matters related to the school's internal controls and certain observations and recommendations on other matters. Recommendations were related to journal entries, invoice processing and cash payment procedures. Management's responses adequately addressed the recommendations.

For the year ended June 30, 2004, the school's auditors issued a management letter that noted certain matters that were described as opportunities for strengthening internal controls and improving operating efficiencies. The matters involved the human resources department, the cash receipt process, and the lack of a system maintenance and disaster recovery plan. In response, management has indicated appropriate actions were taken, or will be taken.

whereby budget transfers among line items may be requested and/or adopted during the year.

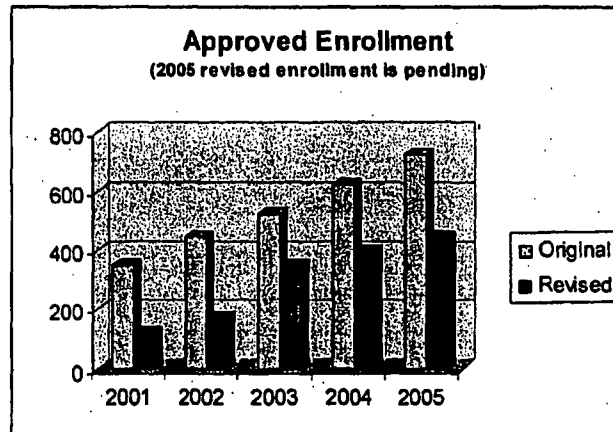
At the time of the renewal visit, the school had not yet developed its budget and finance committee. Subsequently, the school has taken steps to develop the committee. The committee presently consists of three Board members and the Board has stated that it plans to aggressively recruit additional professionals with backgrounds in finance and accounting to join the Board and this committee. In addition, the finance committee has also committed to establishing periodic (every 30-45 days) conference calls to discuss the school's financial position and statements; more robust fundraising and grant-seeking efforts; and a strategic planning retreat to focus on the school's medium to long-term goals. The Chair of the committee has a good background in finance and accounting. The Chair identified a host of concerns of the committee including: getting tighter control of procurement, establishing a diversity policy, developing an internal audit committee and achieving fiscal transparency.

**Benchmark 3B**  
**Budgeting and Long**  
**Range Planning**

**3B**      **The school has operated pursuant to a long-range financial plan. The school has created realistic budgets that are monitored and adjusted when appropriate. Actual expenses have been equal to or less than actual revenue with no material exceptions.**

The school has operated pursuant to long-range plans. Budgets have provided a realistic general framework for the school's spending activities and monitoring procedures were in place. However, expenses exceeded income in three of four years.

Merrick was unable to enroll the number of students initially planned due to facility constraints. Presumably, had the school been able to find sufficient facilities to accommodate the initial planned enrollment, its financial health would have been improved. The chart below shows the original and revised approved enrollment by year.



As such, while the school has not always operated on a balanced budget, it has never experienced an operating cash shortfall. Its ability to do so has been largely dependent upon Victory Schools deferring a portion of management and central service fees.

Budgets and cash flow projections were generally filed timely. Based on the format of the month-by-month cash flow projections for the first four years, it is unlikely that the school is using such projections for internal purposes. As noted above, this has not had a negative impact on the school's cash flow. The school is modifying the way it prepares

## Renewal Question 3 Is the School Fiscally Sound?

<b>Benchmark 3A</b>	<b>3A</b>	<b>The Board has provided effective financial oversight, including having made financial decisions that furthered the school's mission, program and goals.</b>
<b>Board Oversight</b>		

During the renewal visit, the Board was offered the opportunity to discuss a couple of its most important financial decisions. Comments by the Board members were general in nature and primarily concerned the school using sound fiscal practices. One specific item cited was the work of one Board member in analyzing the viability of previous enrollment expansions. Based on the responses and other evidence, it is clear that the Board relies significantly on Victory to do much of the legwork on financial decisions. Clearly one of the most important decisions of the Board relates to its facility. The school is situated in a suitable facility and it has not needed to devote an excessive amount of resources to rent and other facility costs, thereby allowing more resources to be devoted to instruction. The Board's decision to partner with Victory Schools provided access to start-up capital and some overall stability. By partnering with Victory, the school is able to benefit from economies of scale related to some purchases.

Board oversight has been particularly good as it relates to per pupil revenue by ensuring that enrollment remained high. The school has kept actual enrollment between 97- 99 percent of approved enrollment each year. The cooperation of the Principal was cited as being particularly helpful in this area.

The school's by-laws require that the Board meet at least bimonthly during the school year and as appropriate during the summer. Except for the 2002-03 school year, when the Board met only three times, this schedule was generally met. One of the nine voting members of the Board is not active. Although required by its by-laws, the school did not have a budget and finance committee until September 11, 2003. The role of the committee is narrowly defined and it has not formally functioned to date.

Beginning with the 2001-02 school year, the school's Board minute packages routinely included year-to-date financial information including budget to actual comparisons. Victory Schools provides these comprehensive financial reports to the Board, the Principal and onsite business manager. The minutes note the presentation of the information and sporadic instances of discussion and questions. Discussion of certain specific subjects such as facilities issues are noted separately. During the first three years of its charter, the Board did not meet directly with its independent auditor to discuss the annual financial statement audit report. However, in November 2004, the entire Board met with its auditors to discuss the audit report for FY 2004. The school indicated that, going forward, the Board and its budget and finance committee will continue to annually meet with the school's auditors to review the school's audited financial report and statements.

As noted above, Victory's monthly financial reports are comprehensive and provide useful analysis of budget variances. However in the past, the school Board has not typically adjusted its budget during the school year. A new procedure is being developed

evidence of strong parent and community support. At the close of the 2003-04 school year the school boasted a waiting list of 510 students – 110 percent of the school's planned enrollment for the 2004-05 school year.

**Benchmark 2E**  
**Legal Requirements**

**2E**

**The school has substantially complied with applicable laws, rules and regulations and the provisions of its charter.**

A school that meets this benchmark will have compiled a record of substantial compliance with the terms of its charter and applicable laws and regulations. In addition, at the time of renewal, the school will be in substantial compliance with the terms of its charter and applicable laws and regulations. Such school will have maintained and have had in place effective systems and controls for ensuring that legal and charter requirements were and are met. A school should also be able to demonstrate that the school has an active and ongoing relationship with independent legal counsel that reviews relevant policies, documents, and incidents and makes recommendations as needed.

The Board also implemented, and has abided by, a conflict of interest policy and code of ethics during the term of the charter. Trustees avoid creating conflicts of interest, but rely on the corporation's by-laws to provide direction should the need arise. We also note that the State Education Department has indicated that as of January 28, 2005, the school was only in partial compliance with the Safe Schools Against Violence in Education Act (SAVE) in that the school safety plan submitted pursuant to Education Law section 2801-a was not complete.

The school also has processes and procedures in place to ensure it provides services for students with disabilities as required under the law. The school's staff includes a certified special education teacher and a Director of Support Services. At the close of the 2003-04 school year, 26 students identified by the Committees on Special Education from each child's district of residence were enrolled at Merrick Academy. The school works amicably with the Committees on Special Education in the students' home districts as demonstrated by the Committees' willingness to hold regular meetings at Merrick Academy.

The school has an active and ongoing relationship with independent counsel to assist the Board in legal matters.

will assist the Board as it continues to promote increasing academic success at the school while determining if the deployment of financial resources fully targets the instructional program.

**Benchmark 2D**  
**Parents & Students**

**2D**

**Parents/guardians and students are satisfied with the school as evidenced by survey results as well as the volume of parents who choose the school to provide education for their children and the degree to which parents persist with that choice over the child's academic career.**

The school that satisfies this benchmark will be able to show through generally accepted surveying standards and practices that a large majority of all parents with students enrolled at the school are satisfied with the school. As only a well-informed parent can be meaningfully satisfied, the school must be able to show that it has provided to parents detailed and accurate information about their child's performance as well as the performance of the school as a whole. The school should also be able to provide data on application lottery, enrollment and persistence rates to demonstrate that large numbers of parents seek entrance to the school, and far more importantly, keep their children enrolled year-to-year. Ideal survey data will also provide an explanation for the persistence rate experienced by the school.

Merrick Academy parents interviewed during the renewal visit clearly articulated the school's mission to become one of the finest public schools in America. Parents cited frequent communication from teachers, academic opportunities, greater use of technology<sup>19</sup> than in other public schools, and the quarterly parent-teacher conferences that are scheduled at times that maximize parent participation. The Parent Teacher Association is active in assisting the school with its arts program. Recently, the Parent Teacher Association has created a "Benchmark Committee" with the goal of studying the best practices of successful schools, performing a comparative analysis between what is learned and the program at Merrick, and to assist the school in growth and improvement in the future. During the interview the parents expressed enthusiasm for the school's requested growth to serve students in the Kindergarten through eighth grades and hoped the school would consider growing to serve high school students in the term of a future charter.

The school has distributed parent satisfaction surveys over the term of this charter. Each year parents report high levels of satisfaction with regard to the achievement and academic progress of their children. The most recent survey data available from the school shows 61 percent of parents returned the survey and 97 percent of those responding were "very satisfied" with the school's program.

Merrick Academy regularly communicates with parents. Classroom and school-wide newsletters are distributed on a frequent basis. In addition, weekly or monthly reports on student behavior and academic progress are sent home according to the schedules set by classroom teachers. Formal report cards and parent conferences occur on a quarterly basis.

The school has been fully enrolled for most of its charter. Since the opening Merrick has enjoyed a waiting list for available seats at all grade levels and cites this as additional

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<sup>19</sup> The Merrick Academy Web Site can be found at: <http://www.merrickacademyqpcs.org>.

**Benchmark 2C**  
**Governance**  
**(Board of Trustees &**  
**School Leadership)**

**2C.1**

**The Board has implemented and maintained appropriate policies, systems and processes and has abided by them.**

A school that meets this benchmark has implemented a comprehensive and strict conflict of interest policy (and a code of ethics) and has consistently abided by them through the term of the school's charter. Where possible, the Board has avoided creating conflicts-of-interest. The school Board has also maintained and abided by the corporation's by-laws. In addition, a Board meeting this benchmark will have actively sought information from the staff, parents, community, and student populations. The system for hearing such views and concerns will have been consistently implemented so that all views and concerns were appropriately heard and acted upon. The Board will have published, reviewed and communicated policies annually and currently maintains an up-to-date policy manual.

**2C.2**

**The Board and school leadership clearly articulate the school's mission and design and work to implement it effectively.**

To fully meet this benchmark, school leaders and Board members should be able to evidence a strong understanding of the school design and demonstrate that they have referred to it regularly in managing and governing the school. Moreover, the Board and the school's administration should have deployed resources effectively to further the academic and organizational success of the school. At the Board level, the Board should have a process for selecting both Board members and the school leader or school leadership team that is timely and effective and such process should result in a stable and effective Board and leadership team. The Board should also have evaluated school leadership on an annual basis. Such evaluation should be based on clearly defined goals and measurements. The school Board and school leadership should be able to demonstrate that they are facile with the process.

Members of the Merrick Academy's Board of Trustees are articulate in describing the mission of the school. The Board has provided strong and consistent leadership over the life of its charter and functions as a strong external advocate for the school across the Queens Village community and on the state level. The Board conducts an annual review of school performance, reviewing and commenting on the school's annual reports. While the Principal's evaluation is performed by Victory Schools, the Board provides fervent support for the Principal and has done so since the school's founding.

The Board receives monthly reports from Victory Schools on the financial and overall progress of the school. Recently the Board implemented a committee structure that includes both a finance and an academic committee, and has just begun to examine the links between the financial operations of the school and their impact on the school's academic progress. Committee members are working with the school's Principal and management company to augment financial practices and to plan for curricular, staff, and assessment needs for middle school students should the school's new charter include the opportunity to educate middle school students. The Board rightly determined that more focused oversight of both financial and academic accomplishments at Merrick Academy would provide greater potential for academic growth school-wide. This analytical focus

**Benchmark 2B**  
**Mission & Design**  
**Elements**

**2B**

**The school is faithful to its mission and has implemented the key design elements included in its charter.**

The school that meets this benchmark has school Board members, parents, teachers, school leader(s) and community partners that consistently present evidence of the school's success with reference to the school's mission and the key design elements included in its charter application. Key elements of the school's design are well implemented and the school's academic results, governance, and instructional practices reflect the mission of the school.

Over the life of its charter, Merrick Academy - Queens Public Charter School has implemented the key design elements in its charter. Specifically, the school implemented Direct Instruction as outlined in its original charter as well as the arts program and parent involvement program envisioned by the school's founders. While the arts program has remained constant since the school's opening, the school changed its mathematics instruction and augmented its reading instruction through the adoption of curriculum materials not anticipated at the time the school was founded. Nevertheless, the changes in curriculum clearly reflect the mission of the school in that curricular materials are linked to state performance standards.

The school's Board, teachers, parents and community supporters articulately expressed the school's mission as evidenced by reports generated over the term of the charter and in observations and interviews at the renewal visit.

years. The school changed its rating scale from the four category "excellent," "good," "satisfactory," and "poor" described in their approved Accountability Plan to a four category scale that has the following labels: "very satisfied," "satisfied," "somewhat dissatisfied," and "very dissatisfied."

The school received a 2002-03 survey response rate of 61 percent (214 parent surveys returned out of 348 distributed). Sixty-one percent of the responding parents in the 2002-03 survey are either satisfied or very satisfied that their child "demonstrates knowledge of art and music."

As to the second unique program area goal, measure one gauging participation in class-wide and school-wide community based civics projects, the school provided information that out of nine projects over the course of the school's charter, seven of them enjoyed 100 percent participation. Institute visitors found that a majority of these projects, while possibly informative for students, did not consistently require students to create student journals or projects that produce student work products that moved students closer to the attainment of knowledge and skills required by state standards.

On measure two of the school's second unique program area goal, an average of 96 percent of parents responding rated themselves as "satisfied" or "very satisfied" (on the aforementioned new four category scale) that their children "demonstrate self control, responsibility and concern for others." Similarly on measure four of the school's second unique program goal, in 2002-03 – the first year of the Parent Task Force – 94 percent of the parents evaluated overall student behavior at the academy as "excellent" or "good" (as per the original scale).

The school did not present evidence that it met measure three of its second unique program area goal; that 70 percent of classroom teachers would rate classroom and school-wide behavior as "excellent" or "good" on a four category scale. The school did not distribute the teacher survey to gather this evidence until the 2003-04 school year. The four category scale changed to "very satisfied," "satisfied," "somewhat dissatisfied," and "very dissatisfied." Out of 28 teachers, 22 teachers responded (a 79 percent survey return rate). Of the teachers responding, 50 percent stated they were "somewhat dissatisfied" and 32 percent were "very dissatisfied" with student behavior.

The school's renewal application explains this by stating, "We believe that in responding to this survey, the Merrick faculty judged student behavior using very high expectations and against an absolute standard of behavior, rather than against a relative standard of the local public schools." Institute visitors agree with the Merrick faculty, there is an absolute standard for the kind of student behavior required to create an academically focused atmosphere. Relative acceptability does not meet the Institute's benchmark for student behavior. As noted in Benchmark 1D.3 of this document, the school's written code of conduct is sufficient and, overall, guided the school satisfactorily in earlier years of the school's charter. Evidence gathered during the renewal visit suggests that the school's environment has lost the focus and behavioral hallmarks that are reflective of a high performing school.

## Renewal Question 2

### Is the School an Effective, Viable Organization?

<b>Benchmark 2A</b>  <b>School Specific Non-Academic Goals</b>	<b>2A</b>	<b>The school meets or has made meaningful and consistent progress towards meeting the Unique Measures of non-academic student outcomes that are contained in its Accountability Plan over the life of the charter.</b>
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Merrick Academy - Queens Public Charter School included two non-academic goals and measures in its Accountability Plan. They are as follows:

**Goal 1:** Students at Merrick Academy - Queens Public Charter School will develop knowledge and appreciation of art and music.

**Measure:** In a yearly survey distributed to all parents, 70 percent of parents responding will report that the Academy has done a "good" or "excellent" job in improving their child's knowledge and appreciation of art and music on a scale of "excellent," "good," "satisfactory," and "poor."

**Goal 2:** Students at the Merrick Academy - Queens Public Charter School will demonstrate strength of character and concern for others by participation in class-wide and community based civics projects and by demonstrating appropriate classroom and school-wide behavior.

**Measure 1:** Ninety percent of students in the Academy will participate in civics projects that improve their knowledge of their community as measured by their writing and demonstration activities reflection in student journals and class-wide portfolios developed for all major project activities. A portfolio of exemplary activities and projects suitable to demonstrate school-wide excellence in this area will be presented in the accountability progress report.

**Measure 2:** Seventy percent of parents who respond each year will report that their child's growth in responsibility, self control and concern for others has been "good" or "excellent" on a scale of "excellent," "good," "satisfactory," and "poor."

**Measure 3:** Seventy percent of regular classroom teachers will rate classroom and school-wide behavior as "excellent" or "good" on a scale of "excellent," "good," "satisfactory," and "poor."

**Measure 4:** Seventy percent of participants in a Parent Task Force will evaluate overall student behavior at the Academy as "excellent" or "good" on a scale of "excellent," "good," "satisfactory," and "poor." Parents on the Task Force will receive training on an evaluation rubric, and will observe classroom and school-wide activities during one full day each fall and spring.

Parent survey data gathered over the last three school years (2000-01, 2001-02, and 2002-03) was used to provide evidence that the school attained its goal for students to develop knowledge and appreciation of art and music. Parent responses agreed with the statement that their "child has demonstrated knowledge and appreciation of art and music" all three

The school's management company, Victory Schools provides the Merrick Academy Principal with teacher professional development protocol. This protocol includes a Professional Development Needs Assessment that teachers complete and return to the Principal, a lesson observation and discussion protocol, as well as an Action Plan and Monthly Calendar Dates for professional development activities. Victory also provides the school with an analysis of student test scores and documents that describe using test score analysis to inform and augment instruction. The goal of the professional development protocol is to "foster self-learning among all members of the staff...and a framework for supporting a community of learners within the school."<sup>18</sup>

Teachers receive professional development and coaching from curriculum personnel from the school's management company. This occurs during the weeks before students begin school in the fall and continues throughout the school year on a weekly or monthly basis depending on the curriculum area and needs of the teachers. While these are strong elements of any professional development protocol, they have yet to provide Merrick Academy teachers with the support, skills, and instructional prowess necessary for students to consistently achieve at high levels as measured by state standards. Merrick Academy teachers do not benefit from strong instructional leadership at the building level. The Principal visits classrooms informally two and three times a week and performs annual observations to review instruction. Frequent, consistent and meaningful opportunities for teachers to plan, execute, analyze and improve lessons, thereby increasing student achievement, rarely occur at the school. This pattern continues in the school's fifth year, at least in the fifth and sixth grades.

While the alignment of a written curriculum to state standards is essential in ensuring students have the opportunity to learn and succeed, it is the delivery of the instruction that enables students to learn, practice, and develop the knowledge and skills required for academic success. Merrick Academy has yet to implement the kind of instructional leadership at the building level that provides teachers with frequent opportunities to plan focused lessons, practice and acquire strong and consistent instructional expertise, review the strength of student work as measured by the requirements of state standards, and learn to assess student performance in a way that will sustain continued academic success for children.

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<sup>18</sup> Victory School's Operational Memo #42

**Benchmark 1G**

**Professional  
Development**

**1G.1**

**The school's professional development program aligns with the school's mission, assists teachers in meeting students' academic needs and school goals, and addresses any identified shortcomings in student learning and/or teacher content knowledge.**

Professional development offerings at a school that meets this benchmark are aligned with the school's educational philosophy and are effective in helping teachers improve instruction. Most importantly, professional development practices at the school are a priority of the school leadership and buttress the instructional program, meet student learning needs and result in increased student achievement. The school's calendar reflects that professional development and instructional planning are a high priority. A school should also be able to demonstrate that necessary support for inexperienced teachers is available. Teachers and school leaders report professional development activities have resulted in gains in teacher pedagogic content, knowledge, and skills and this expertise has led to increased student academic achievement.

**1G.2**

**The school has a system in place for ongoing teacher evaluation and improvement that supports the school's ability to reach the goals contained in its Accountability Plan.**

The school that meets this benchmark has leaders who spend extended time in classrooms. Teachers receive relevant and helpful written and verbal feedback, counsel, support, and opportunities to increase the instructional skills and content knowledge required for the school to meet its academic goals.

Throughout the life of the school's charter, Institute reports provided evidence that most of Merrick Academy's teachers created classrooms that reflected high expectations for learning and achievement. Based on a review of school documents during the renewal visit, Merrick Academy teachers are certified in accordance with the Charter Schools Act of 1998. While Institute visitors observed quality teaching in some classrooms during the renewal visit, the pervasiveness of substantive instruction had diminished from that in evidence during the earlier years of the school's charter.

The evidence generated over the life of the school's charter suggests this is attributable to three factors. First, the Merrick Academy teaching staff increased in size as the school's enrollment grew from 169 students to 400 students. This growth occurred between the second and fourth year of Merrick Academy's charter. At the same time Merrick grew from serving students in Kindergarten through second grades to students in Kindergarten through fifth grades. As the school's enrollment increased, so did the requirement to provide instruction to meet the increasing demands of state standards. Second, the school's new curriculum requires stronger teaching skills in order to design and deliver quality instruction. Third, the implementation of the new curriculum was not accompanied by the instructional leadership necessary for a staff with disparate sets of teaching skills and varying levels of experience.

**Benchmark 1F**  
**Student Order &  
Discipline**

**1F**

**The school has implemented discipline policies and procedures that promote learning for all students.**

The school that meets this benchmark has documented discipline policies and procedures (for regular and special education students) and has consistently enforced those policies. As implemented and enforced, the discipline policy will have promoted calm, safe classrooms where students are required to (and not distracted from) participating fully in all learning activities. Students at a school meeting this benchmark will also generally report a reasonable sense of security. A school will also be able to provide appropriate records regarding expulsions and suspensions.

The school's code of conduct lays out a clear set of expectations for students, teachers, parents, and staff in the creation of a school environment that is designed to promote learning and achievement. Institute reports over the life of Merrick's charter state that a clear sense of academic purpose pervaded the school. Over the charter term, evidence shows that a majority of students were eager to learn and attentive to lessons while in some classrooms teachers did not set high academic or behavioral expectations.

Observations and interviews during the renewal visit showed that teachers are familiar with the code of conduct, but in the fourth year of its charter, Merrick's ability to create a rigorous academically focused environment was challenged. Many teachers used a variety of techniques to productively focus classroom behavior. In the primary classrooms, teachers use a color-coded "behavioral signal," much like a traffic signal, that is posted in the room. Students' names are moved from green – appropriate behavior, to yellow – a warning that behavior is moving away from acceptable standards, to red – the behavior is blatantly disruptive to learning. No such common behavioral strategy was observed in upper grades. During the one-day, follow-up visit in the school's fifth year, behavior remained an issue in the upper grades. Some teachers spent an inordinate amount of time on ineffective behavioral strategies, *e.g.*, repetitions of "eyes on me, count to three," which resulted in only brief respites from overwhelming chatter; shouting "don't make me shout," or "stop shouting." In general, no actual consequences to students for their low-level but chronic disruptions occurred.

Student movement in hallways on the first floor of the school, where the lower grade levels are housed, is purposeful and not disruptive to teaching and learning. On the second floor, where the upper grades and cafeteria/multipurpose rooms are located, a disruptive level of noise and chasing in the hallways was frequently observed during the renewal visit.

The Principal requires teachers to send reports to parents that outline both academic and behavioral achievements of children. The frequency of these reports varies with some teachers reporting weekly and others monthly. The reports do not appear to have a consistent format for tracking behavior or progress toward academic goals.

The school currently has no students identified who need English language learner supports. However, a process to identify such students is in place and is administered by the Director of Support Services.

**Benchmark 1E**

**1E**

**Teaching Staff**

**The school's instructional staff is qualified to implement the school as envisioned in the charter. Teachers are competent in their assigned content area and generally use instructional practices that lead to student academic success.**

A school that meets this benchmark will be able to demonstrate that teachers are competent in their assigned content area and generally use instructional practices that lead to student academic success. (While handled under the benchmark for legal and charter compliance, it is important to note that a school must also be able to demonstrate that teachers are certified or otherwise qualified under both federal and state law with few exceptions. In instances where the school has not been in compliance with this requirement of law, the school should be able to show that it has taken swift and appropriate remedial measures.)

Based upon the Institute's review of teacher certification documents, Merrick Academy's teachers are certified in accordance with the Charter Schools Act of 1998. Over the life of the school's charter, Institute reports reflect that substantial portions of the teaching staff were ably implementing the Direct Instruction curriculum. As noted in other areas of this report, evidence gathered at the renewal visit reflects some diminishment in the level of instructional expertise, with weaknesses especially prevalent in fifth and sixth grade. The precision and exactness with which teachers must deliver instruction in order to enable students to reach the state's performance standards was not as much in evidence as it had been in previous years.

largely the same. In another fifth grade class, "homework" in English Language Arts consisted of copying down in class a few examples of homonyms and synonyms, which had taken the class and teacher an entire hour to generate; in yet another class, the topic and goal of the class, to chart numerical data, was never reached; rather the class spent almost an hour on defining eight words; in two circumstances the definitions supplied by the teacher were incorrect, e.g., "longevity" was defined as the life-span of a living thing, rather than the correct definition: a long life-span.

Not all deficiencies in instruction can be attributed to inexperience. During the initial renewal visit in June, Institute staff observed that the teachers with the least amount of experience displayed the strongest instructional skills relative to the instructional abilities of the overall staff. During the follow-up visit in the 2004-05 school year, all teachers in fifth and sixth grade were inexperienced.

In its fifth year, the school's instructional leadership is bifurcated. Grades Kindergarten through four are overseen by a staff member; grades five and six by the school Principal, who has little previous experience as a fifth or sixth grade teacher or instructional leader. In the fifth and sixth grades, a coach, employed by Victory Schools and previously a middle school Principal, also provides weekly assistance. In addition, the school receives professional development workshops and in-class coaching for the fifth and sixth grade math and science teachers two and a half days a month. Judged by the Institute's classroom observations and admittedly limited review of student work during the December one-day follow-up visit, the present system of supports, development and leadership is inadequate to the task in the upper grades. While the leadership has indeed implemented weekly grade-level meetings of teachers and monthly subject-area meetings, as above, the level of instruction is weak and inconsistent. Whether this is a result of insufficient academic leadership or unskilled teachers is unclear. Whatever the cause, the outcome is the same: a lack of rigor, precision, focus and urgency.

The previous Direct Instruction curriculum included highly scripted instructional guides for teachers that precisely identified each step and direction required in a lesson. The Scott Foresman curriculum requires greater depth of instructional knowledge and facility on the part of teachers. The school's teaching staff did not display such depth of knowledge and skill during renewal visit classroom observations. As such, while the school's curriculum as written aligns with state performance standards, the implementation of that curriculum has yet to reach a level of rigor and consistency that will allow all students at Merrick to achieve at the highest academic levels.

To ensure that students in need of additional academic support are identified and that individual needs are addressed, Merrick Academy's organizational structure includes a Director of Support Services, a lead Title I teacher, two assistant Title I teachers, and a certified special education teacher. The school also has a social worker on staff and contracts with an outside vendor to provide students with speech and occupational therapy. The services of a school nurse are provided through the New York City Department of Health.

The school has an established process to identify students in need of academic support. The process relies primarily on the results of the spring administration of the Iowa Test of Basic Skills (ITBS) for students enrolled during a school year. When students new to the school enter in the fall, the school administers the Peabody Individual Achievement Test (PIAT). If a student scores one grade level below his or her current placement, the student receives Title I support. A major focus of this support is English Language Arts and mathematics. Students are provided additional services in the classroom or a separate area of the school depending upon student needs and the space available in the school. Communication between the Title I staff and classroom teachers ensures that students are provided the support necessary to augment classroom instruction.

**Benchmark 1D**

**Pedagogy**

**1D.1**

**Strong instructional leadership girds the school's work in improving student learning and achievement.**

The school that meets this benchmark has instructional leadership that has demonstrated the capacity to lead the comprehensive implementation of the school's curriculum and has facilitated the alignment of classroom instruction, learning activities, instructional resources, support, and assessments. Instructional leaders at the school ensure that teacher planning time, lesson development, and internal assessment systems lead to the successful attainment of the school's mission and academic goals.

**1D.2**

**Quality instruction is evident throughout the school fostering an academic learning environment and actively supporting the academic achievement of children.**

The school that meets this benchmark is one in which classroom practice reflects competent teaching and instructional strategies that engage students. The academic learning environment at the school is one in which effective teaching and learning are valued and supported; there is a clear and strong focus on achievement goals, and student and staff accomplishments are recognized.

**1D.3**

**The school has strategies in place to identify and meet the needs of students at risk of academic failure, students not making reasonable progress towards achieving school goals, and students who are English Language Learners.**

The school that meets this benchmark has implemented special programs and provides the necessary resources to help students who are struggling academically to meet school goals. The programs are demonstrably effective in helping students meet goals.

Reports on the school generated by the Charter Schools Institute over the life of the school's charter show that classroom instruction, the path through which curriculum becomes knowledge and skills retained by the students, has been largely satisfactory. Observations during the renewal visit (and the one-day follow-up visit in December 2004) revealed a greater degree of inconsistency than noted in the past in the ability of Merrick's teaching staff to deliver lessons that were focused, purposeful, and resulted in the production of student work that reflects the requirements of state standards. During the initial renewal visit in June 2004, inconsistencies in instruction were most pronounced in second, fourth and fifth grades. During the follow-up visit in December (which focused on instruction in the fifth and sixth grades), instruction was generally poor and unfocused. (At the time of the initial visit in June, the school did not have a sixth grade.) In the fifth and sixth grades, as observed on a single day in December, the majority of teachers spent excessive time on classroom management and did not have clear lesson plans and goals for the classes. While attributed by the administration as an anomaly, observers noted, for instance, that a fifth and sixth grade English lesson used the same book, and that the lesson derived from that book (on identifying conflicts) was

SECOND RENEWAL CHARTER

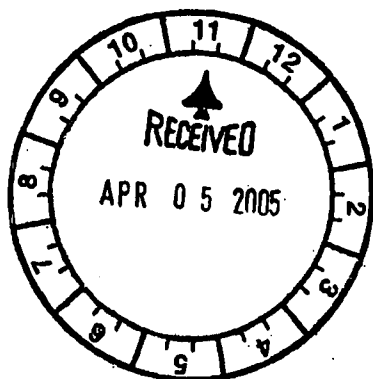
DATED AS OF MARCH 31, 2005

BETWEEN

BOARD OF TRUSTEES OF THE  
STATE UNIVERSITY OF NEW YORK

AND

MERRICK ACADEMY – QUEENS PUBLIC CHARTER SCHOOL



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## SECOND RENEWAL CHARTER

This agreement is executed on this 31<sup>st</sup> day of March, 2005 by and between the Board of Trustees of the State University of New York (the "Trustees") and the MERRICK ACADEMY - QUEENS PUBLIC CHARTER SCHOOL (the "School" or "School Corporation"), an independent and autonomous public school under the New York Charter Schools Act of 1998.

### WITNESSETH:

**WHEREAS** the State of New York (the "State") enacted the New York Charter Schools Act of 1998 (as amended, the "Act"), codified in part as Article 56 of the Education Law (sections 2850-57); and

**WHEREAS** pursuant to sections 2851 and 2852 of the Education Law, the Trustees have the authority to approve applications to establish and renew the charters of charter schools in the State and thereafter to enter into agreements with applicants setting forth the terms and conditions under which a charter school is to operate, such agreements until issued in final form to be known as proposed charters; and

**WHEREAS** an application was submitted to the Trustees for establishment of the School pursuant to section 2851 of the Education Law (the "Original Application"), which the Trustees approved; and

**WHEREAS** pursuant to the Education Law, the Board of Regents (the "Regents") issued a provisional charter (the "Original Charter") and incorporated an education corporation to establish and operate a charter school; and

**WHEREAS** the Trustees approved a first renewal application based on the Original Application (as amended by its terms through February 2005) and authorized the renewal of the Original Charter through and including June 30, 2005 (the "First Renewal Charter"), all as limited and restricted in the renewal report of the Charter Schools Institute (the "Institute"); and

**WHEREAS** pursuant to the Education Law, the Regents approved the First Renewal Charter and extended the Original Charter through and including June 30, 2005; and

**WHEREAS** the Trustees approved a second renewal application and authorized the amendment of renewal of the First Renewal Charter, all as limited and restricted in the renewal report of the Institute; and

**WHEREAS** pursuant to the Education Law, the Regents are authorized to approve the proposed charter and extend the School's provisional charter for the term set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained herein, the Trustees and the School Corporation hereby agree as follows:

## SECTION 1. STRUCTURE OF SCHOOL

1.1 Charter. This agreement (the "Charter Agreement"), and the exhibits hereto, specifically, certain terms of operation, set forth collectively and attached hereto as Exhibit A (the "Terms of Operation"), the monitoring plan, attached hereto as Exhibit B (the "Monitoring Plan"), the School's accountability plan for the term of the renewed charter (the "Accountability Plan"), attached hereto as Exhibit C, and the additional assurances and terms, if any, set forth collectively and attached hereto as Exhibit D (the "Additional Assurances and Terms") shall constitute, before their approval by the Regents, the proposed charter (the "Proposed Charter"). If approved or deemed approved by the Regents, the Proposed Charter shall be known as the charter (the "Charter" or the "Second Renewal Charter"). The Charter, together with the certificate of incorporation issued by the Regents, shall set the terms for the operation of the School and shall be binding on the School Corporation. Upon its effective date, the Charter supersedes and replaces the First Renewal Charter and any other or previous charter agreement between the parties hereto.

1.2 Effective Date; Term. The Charter shall take effect immediately upon, and only upon, (a) its approval by the Regents or approval by operation of law pursuant to subdivision 2852(5-a) or (5-b) of the Education Law and (b) expiration of the term of the School's First Renewal Charter (the "Effective Date"). The Charter shall expire five (5) years from the Effective Date, unless earlier terminated or renewed pursuant to the terms of the Act and hereof.

1.3 [RESERVED]

## SECTION 2. OPERATION OF SCHOOL

2.1 Mission Statement. The School Corporation shall operate under the mission statement set forth in the Terms of Operation. However, the School Corporation may change, amend or otherwise modify its mission statement and such changes shall not require the permission of the Trustees or constitute a revision to the Charter so long as the changes are not inconsistent with the key design elements (the "Key Design Elements") set forth in the Terms of Operation. Such changes shall be approved by the School Board and reported to the Trustees as part of the School Corporation's annual report as required by paragraph 6.1 of the Charter Agreement. Such changes shall also be timely reported to parents of students enrolled at the School.

2.2 Age; Grade Range; Number of Students. The School Corporation shall provide instruction to pupils in such ages, grades and numbers in each year of operation under the Charter as are set forth in the Terms of Operation (the "Projected Enrollment Structure"),

and shall obtain the prior written permission of the Trustees for variances from those terms, except as specifically set forth in subparagraphs a and b below.

(a) The School Corporation may enroll in each year of the charter a total number of students different from such number as is set forth in the Projected Enrollment Structure (the "**Projected Total Enrollment**") so long as (i) the total actual enrollment does not exceed the lesser of one hundred and ten percent (110%) of the Projected Total Enrollment or twenty-five (25) students more than the Projected Total Enrollment; or (ii) the total actual enrollment is not less than eighty-five percent (85%) of the Projected Total Enrollment or fifty (50) students; and

(b) The School Corporation may vary the number of students in any particular grade and/or number of students within a class from that provided for in the Projected Enrollment Structure for the purpose of accommodating staffing exigencies and attrition patterns and such changes shall not require the permission of the Trustees or constitute a revision to the Charter. Notwithstanding subparagraph a of this paragraph and the immediately foregoing, the School may not make any change in the Projected Enrollment Structure without the written permission of the Trustees that results in or has the effect of (i) eliminating or nearly eliminating a grade or grades the School was scheduled to serve under the Projected Enrollment Structure or (ii) not enrolling any returning student scheduled to be served under the Projected Enrollment Structure or (iii) eliminating any student's seat after the student has been admitted.

2.3 Admissions; Enrollment; Attendance. The School shall have in place and implement comprehensive policies for admissions, enrollment and attendance, which such policies shall be approved by the board of trustees of the School Corporation (the "**School Board**") and shall be consistent with applicable law and the policies if any set forth in the Terms of Operation. Such policies shall provide in detail the procedures and practices utilized by the School in regards to admission, enrollment, attendance and withdrawal, including, *inter alia*, the period in which applications for admission shall be timely, how to obtain an application for admission, the practices in operating the random selection process, the maintenance of a wait list, the implementation of the preferences required by law and the taking of attendance pursuant to section 104.1 of title 8 of the Official Compilation of Codes, Rules and Regulations of the State New York (N.Y.C.R.R.). The School Board shall have the authority to make changes to such policies and such changes shall not require the permission of the Trustees or constitute a revision to the Charter. Such changes, however, must be consistent with applicable law and regulations. The School Corporation shall utilize reasonable outreach and marketing measures to make potential applicants aware of opportunities for enrollment at the School. The Trustees, upon a finding that the outreach and marketing measures taken by the School Corporation are inconsistent with applicable law or the Terms of Operation, may require the School Corporation to take remedial action, including but not limited to, requiring the School Corporation to extend its enrollment period, delay or void its random selection process, and/or conduct further specified outreach and marketing steps. Only to the extent specifically provided for in the Terms of Operation or the Additional Assurances and Terms shall the School provide a preference to students at risk of academic failure and/or limit admission to a single sex and any change to such preferences as are provided for by the Terms of Operation or the Additional Assurances and Terms shall require the prior written approval of the Trustees, it being understood that such

changes may also require a revision to the Charter, such determination to be made by the Trustees in consultation with the Regents.

2.4 Educational Program. The School Corporation shall implement and provide educational programs that are designed to permit and do permit the students to meet or exceed the performance standards adopted by the Regents and the goals, and measures of progress towards those goals, of the School as set forth in the Accountability Plan. Subject to the immediately foregoing requirements, the School Corporation shall have the right to make any modifications or amendments to the educational program as it deems necessary, including but not limited to the curriculum, pedagogical approach and staffing structure, and such modifications and amendments shall not require the School Corporation to obtain the permission of the Trustees or constitute a revision of the Charter, provided however that any such modifications shall be consistent with the Key Design Elements and applicable law, and the School Corporation reports such modifications and amendments on an annual basis as required by paragraph 6.1 of this Charter Agreement.

2.5 Evaluation of Students. The School Corporation shall implement student assessment requirements that the Regents make applicable to other public schools and administer Regents examinations to the same extent such examinations are required of other public school students, except as otherwise specifically provided by applicable law. In addition, the School shall supplement those assessment tools with the other assessment tools set forth in the Terms of Operation, if any, or as are required by the Accountability Plan.

2.6 Accountability Plan. The School Corporation shall fully implement, maintain, and report progress on, the Accountability Plan set forth and attached as Exhibit C pursuant to its terms and the terms and requirements of the accountability plan guidelines maintained and disseminated by the Trustees (the "Accountability Plan Guidelines"), and the annual report guidelines on the website of the Institute (the "Annual Reporting Guidelines"), as well as by paragraph 6.1 of the Charter Agreement. Material amendments to the Accountability Plan shall be approved by the Trustees, and to the extent required by law, the Regents, and shall be consistent with the Accountability Plan Guidelines then in effect. The School Corporation understands that its success in meeting the goals and measures set forth in the Accountability Plan shall be the predominant criterion by which the success of its education program will be evaluated by the Trustees upon the School's application for renewal of the Charter.

2.7 School Calendar; Days and Hours of Operation. The days and hours of operation of the School shall be determined by the School Corporation at its discretion subject to their being consistent with the Key Design Elements and the following restrictions:

(a) In no event shall the School provide less instructional time during a school year than is required of other public schools with instructional time to be divided in generally equal amounts over no less than 176 days.

(b) To allow parents to determine whether the School's program is appropriate for their child(ren), the School Corporation shall in each year of the charter determine the days and hours of operation of the School for the next school year by February 1

of the preceding school year and shall make such information readily available to parents seeking to enroll their children in or return their children to the School and provide a copy of such material to the Trustees in a manner that will allow them to post such information on the website of the Charter Schools Institute. The School shall not thereafter for the next school year make any material changes to the days and hours of operation of the School from those determined on each February 1<sup>st</sup> date of the preceding school year that have the effect of shortening the number of days or hours of instruction without obtaining the prior written permission of the Trustees, it being understood that such permission shall not be forthcoming except for good cause shown.

(c) In the first school year that the Charter is in effect, days and hours shall be consistent with those set forth in the Terms of Operation.

2.8 Student Disciplinary Code. The School Corporation shall maintain and implement written rules and procedures for discipline, including guidelines for suspension and expulsion, and shall disseminate those rules and procedures to students and parents. Such guidelines and procedures must be consistent with applicable law, including but not limited to requirements for due process, provision of alternative instruction and federal laws and regulations governing the placement of students with disabilities. The School Corporation shall have the authority to make such modifications to the student disciplinary code as it deems necessary and appropriate and such modifications shall not require the School to obtain the written permission of the Trustees and shall not constitute a revision to the Charter, except that material modifications of the disciplinary code shall be approved by the School Board prior to such modifications becoming effective.

2.9 Code of Ethics. The School Corporation, its trustees, officers and employees shall abide by the code of ethics of the School set forth in the Terms of Operation, and the School Corporation shall disseminate the code in written form to its trustees, officers and employees. Material modifications to the code of ethics shall require prior written approval by the Trustees.

2.10 Governance; School Board; By-laws. The School Corporation shall be governed by the School Board. The School Board shall have final authority for policy and operational decisions of the School although nothing shall prevent the School Board from delegating decision-making authority to officers and employees of the School Corporation. The School Board shall operate pursuant to the following requirements and restrictions.

(a) Except as provided by subparagraph g of this paragraph 2.10, the School Board shall operate pursuant to the by-laws of the School Corporation set forth in the Terms of Operation or as amended pursuant to subparagraph b of this paragraph (initially or as amended, the "By-laws") and the relevant governance provisions of the Not-for-Profit Corporation and Education Law.

(b) The By-laws may not be amended in any material respect without the prior written approval of the Trustees, such approval not to be unreasonably withheld, and in no event can they conflict with any term of the Charter or law, including provisions of the Education and Not-for-Profit Corporation Law applicable to charter schools. In seeking

modification of the By-laws, the School Board shall submit to the Trustees a duly approved resolution of the School Board setting forth the proposed material changes to the By-laws.

(c) The School Board shall have as its members ("**School Trustees**") such total number of School Trustees and shall reserve seats on the School Board for such specified members or constituent groups in such numbers as is set forth in the Terms of Operation. The By-laws shall contain provisions consistent therewith.

(d) Notwithstanding any provision to the contrary in the Charter Agreement, Terms of Operation or By-laws, in no event shall the School Board, at any time, be comprised of voting members of whom more than forty (40) percent are directors, officers, employees, agents or otherwise affiliated with any single entity (with the exception of the School Corporation or of another charter school), regardless of whether said entity is affiliated or otherwise partnered with the school. For the purposes of this paragraph, "single entity" shall mean any individual entity, as well as any and all related entities to such entity such as parents, subsidiaries, affiliates and partners. The Trustees may, at their sole discretion, waive this restriction upon a written request from the School.

(e) Where the School Corporation has engaged an educational service provider or other entity that provides comprehensive management services to the school pursuant to a contract between such entity and the School, (whether for or not for profit), no employee, director, officer, agent or individual otherwise affiliated with such entity and/or any related entity, nor any immediate family members of such persons, shall be eligible to serve on the School Board.

(f) The School Board shall notify the Trustees within five (5) business days of the removal of, or resignation by, any member of the School Board.

(g) The School Board shall require that each School Trustee who has served on the School Board during a school year shall file annually a disclosure report (the "**School Trustee Disclosure Report**") with the Trustees, the form and requirements of which shall be provided by the Trustees. The School Trustee Disclosure Report shall set forth and attest to transactions between the School Corporation on the one hand and a School Trustee and any entity with which such School Trustee is affiliated, on the other, as such transactions may be defined by the Trustees. As set forth in paragraph 6.1 of this Charter Agreement, the School Trustee Disclosure Report for each School Trustee shall be submitted yearly as part of the School's annual report ("**Annual Report**"). In the event that any School Trustee fails to file a School Trustee Disclosure Report within thirty (30) days of its due date of August 1, or such report is in material respects incomplete, misleading or untruthful, and the Trustees inform the School Board of its determination in this regard, the School Corporation, notwithstanding any provision of its By-laws, shall in a timely fashion remove such School Trustee pursuant to a vote of the School Board and the failure of the School Board to so act shall be a material violation of the Charter. Should a School Trustee resign from or otherwise leave the School Board without having submitted a School Trustee Disclosure Report for any year in which such School Trustee served, the School Corporation shall provide the Trustees with a record of the transactions required by the School Trustee Disclosure Report for that School Trustee for each relevant

school year, such reports to be signed by the School Corporation and due on August 1 as part of the Annual Report.

(h) [RESERVED]

2.11 Selection of New School Board Members. All individuals elected or appointed to the School Board during the term of the Charter shall possess appropriate qualifications for such and shall be approved for service on the School Board by the Trustees pursuant to the following procedures. Prior to the appointment or election of any individual to the School Board, the School Board must submit to the Trustees (pursuant to a duly approved resolution of the School Board) the name of the proposed School Trustee and such individual must timely provide to the Trustees, in writing and/or in person at the discretion of the Trustees, such background information as the Trustees shall require (the "School Trustee Background Information"). Within forty-five (45) days of receiving the name of the proposed School Trustee, the Trustees shall in writing reject or approve such individual. In the event that the Trustees do not provide in writing an approval or rejection within the forty-five (45) day time period, the proposed School Trustee may be seated by the School Board so long as such action would be consistent with the By-laws and any other applicable Terms of Operation. A failure by the School Corporation or the proposed School Trustee to timely provide the School Trustee Background Information to the Trustees shall be grounds for rejection of the proposed School Trustee.

2.12 Complaint Policy. The School Corporation shall implement and maintain a complaint policy to receive and handle complaints brought pursuant to subdivision 2855(4) of the Education Law. The School Corporation shall have the power to amend the complaint policy in any way it deems necessary and appropriate, and such amendment shall not require the permission of the Trustees and shall not constitute a revision to the Charter, so long as, such amendments are approved by the School Board and are consistent with applicable law and due process. A copy of the School Corporation's current complaint policy shall be distributed to the parents and/or guardians of students enrolled in the School and made readily available to all others requesting a copy. The School Corporation shall also provide a copy of the School's current complaint policy to the Trustees. Upon resolution of a complaint, the School Corporation shall provide to the complainant:

- (a) its written determination and any remedial action thereto;
- (b) a written notice to the complainant that he or she may appeal the determination of the School Corporation to the Trustees; and
- (c) a copy of the Trustees' policies (as they are posted on the website of the Institute).

2.13 Contracting with an Educational Service Provider. Any entity that provides all or a substantial subset of all services necessary to operate and oversee the School's educational program on a fee basis and pursuant to a fee-based contract shall be known as an educational service provider ("Educational Service Provider") and the contract under which

such services are provided shall be referred to as the management contract ("Management Contract"). Any other contractual arrangements, including but not limited to leases, subleases, lease-purchase agreements, credit facilities, loan agreements, promissory notes, negotiable instruments and other debt instruments, that are contemplated between the School Corporation on the one hand and the Educational Service Provider, its partners, parents, subsidiaries, agents and affiliates (including any entity that holds an economic interest in the Educational Service Provider) on the other shall be know collectively, together with the Management Contract, as ESP Contracts ("ESP Contracts"). The following requirements and provisions relating to Educational Service Providers, Management Contracts and ESP Contracts shall apply.

(a) The Trustees reserve the right to review and disapprove any and all ESP Contracts that are executed or amended during the time that the Charter is in effect for good cause shown. In addition, any and all ESP Contracts that were executed prior to the Effective Date are subject, after one year from the Effective Date, to the Trustees' review and disapproval for good cause shown. Good cause shown includes but is in no way limited to a finding that the ESP Contract(s) at issue do not, under the totality of the circumstances, allow the School Corporation effective and sufficient means to hold the Educational Service Provider accountable, including means to terminate the Educational Service Provider without placing the School Corporation's further existence in peril. The above terms are in addition to the requirements of paragraph 2.17 of the Charter Agreement.

(b) To facilitate the Trustees' rights of review and disapproval, the School Corporation shall provide the Trustees with any proposed ESP Contract not executed prior to the Effective Date or any such agreement that had been executed theretofore but is proposed to be amended subsequent to the Effective Date, not later than thirty (30) days prior to the proposed date of execution. For ESP Contracts that were executed prior to the Effective Date, the School Corporation must submit such contracts to the Trustees within one year of the Effective Date. When submitting an ESP Contract, the School Corporation must include a written opinion of the School Board's legal counsel stating that the ESP Contract has been reviewed by legal counsel to the School Board. Within thirty (30) days of receiving the proposed ESP Contract, the Trustees shall notify the School Board if the agreement is disapproved, except that the Trustees, at their discretion, may extend the review period an additional thirty (30) days. It is expressly understood that should the Trustees not disapprove an ESP Contract, the Trustees by such action are in no way endorsing or approving the contract, the fee arrangements if any or any other provisions contained therein.

(c) The School Corporation shall not enter into a Management Contract with any Educational Service Provider not identified as such in the Terms of Operation without receiving prior written approval from the Trustees.

(d) To the extent that the Terms of Operation contemplate that the School Corporation was to be operated with the assistance of an Educational Service Provider pursuant to a Management Contract, the School Corporation shall obtain the prior written approval of the Trustees prior to operating the School without such Educational Service Provider's assistance. Notwithstanding the above, it is understood that circumstances may require the School Corporation to terminate a Management Contract and/or not renew a

Management Contract and thereafter operate the School without the services of the Educational Service Provider identified in the Terms of Operation (or otherwise subsequently approved by the Trustees) prior to obtaining the permission of the Trustees. Where the Trustees determine, at their sole discretion, that such circumstances exist, and the School Corporation has made good faith efforts to timely inform the Trustees of the circumstances, the Trustees may waive the School Corporation's breach of the prior permission requirement and allow the School Corporation to seek permission *ex post facto*.

2.14 Student Transportation. The School Corporation shall meet the transportation needs of students ineligible for transportation pursuant to section 3635 of the Education Law but only to the extent specifically provided for in the Terms of Operation. The School Corporation may contract with a school district for the provision of supplemental transportation services to the School. All transportation provided by the School Corporation shall comply with all safety laws and regulations applicable to other public schools.

2.15 Health Services. The School Corporation shall provide such health services as are required by law.

2.16 Food Services. The School Corporation shall provide food services to students to the extent required by applicable law. Food services shall be provided consistent with applicable law, including any requirements related to health and safety.

2.17 Facility; Location. The building(s) in which the School is located at any time during the term of the Charter shall be known as the school facility (the "School Facility"). The School Corporation shall have in place at all times a binding lease, purchase agreement or other such agreement for the School Facility (the "Facility Agreement") and such permits and licenses as are required to legally operate the School (collectively, the "Permits"). The School Facility shall be of sufficient size and configuration to allow the School to meet the achievement goals set forth in the Accountability Plan and any legal requirements, such as but not limited to the Americans with Disabilities Act, and the Facility Agreement shall provide the School with all rights and permissions as are necessary to operate as a school in the School Facility according to its educational plan and any relevant provisions of the Terms of Operation. Any material modifications, amendments or extensions to a Facility Agreement shall be reviewed by legal counsel to the School Corporation and shall be approved by the School Board.

2.18 Change in Location. The School may change the physical location of the School Facility or obtain additional buildings for the School Facility within the same school district or specified section thereof if so identified in the Terms of Operation (in the case of the New York City School District, the borough or specified section within the district if so identified in the Terms of Operation) or obtain additional space in a building it already occupies provided that the School Corporation satisfies the provisions of the Act, including but not limited to subdivision 2853(1)(b-1) of the Education Law, and provided further that

(a) the School Corporation notifies the Trustees of the proposed change in location or addition of facilities not less than sixty (60) days prior to taking any final action in connection therewith and provides the Trustees with (i) a facility completion schedule

5.5 Annual Budget and Cash Flow Projections. The School Corporation shall prepare and provide to the Trustees a copy of its annual budget and cash flow projection for each fiscal year by no later than June 30 of the immediately preceding fiscal year.

5.6 Maintenance of Corporate Status; Tax Exemptions. The School Corporation shall maintain its status as an education corporation and its status as a corporation exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code. The School Corporation shall provide the Trustees with copies of all applications and filings relating to maintaining its 501(c)(3) exempt status and shall immediately notify the Trustees of any action by the Internal Revenue Service to withdraw the School Corporation's status as a 501(c)(3) entity.

5.7 Insurance. The School Corporation shall, at its own expense, purchase and maintain the insurance coverage for liability, property loss, and the personal injury of students as required by the Act together with any other additional insurance that the School Corporation deems necessary. The School Corporation shall provide the Trustees with certificates of insurance or other satisfactory proof evidencing coverage within five (5) days of the commencement of each such policy. All such insurance policies shall contain a provision requiring notice to the Trustees, at least thirty (30) days in advance, of any material change, nonrenewal or termination. Notwithstanding any provision to the contrary, the School Corporation shall take all steps necessary to comply with any additional regulations promulgated by the Commissioner and Superintendent of Insurance to implement subdivision 2851(2)(o) of the Education Law.

## SECTION 6. REPORTS

6.1 Annual Reports. No later than August 1 succeeding a school year in which the school provided instruction (or received funding under subdivision 2856 of the Education Law), the School Corporation, pursuant to subdivision 2857(2) of the Education Law, shall submit to the Trustees and the Regents an Annual Report setting forth the academic program and performance of the School for the preceding school year. The Annual Report shall be in such form as shall be prescribed by the Commissioner and shall include at least the following components:

(a) a report card, which shall be in such form and provide such data as set forth at section 119.3 of title 8 of the Official Compilation of Codes, Rules and Regulations of the State New York; and

(b) a discussion of the progress made towards achievement of the goals set forth in this Charter, including the Accountability Plan, and the Terms of Operation; and

(c) a certified financial statement setting forth, by appropriate categories, the revenues and expenditures for the preceding school year, including a copy of the most recent independent fiscal audit of the School Corporation.

In addition, as part of the Annual Report, the School Corporation shall provide the following information to the Trustees:

(d) a report on the progress of the School in meeting the goals and measures of the Accountability Plan during the last school year (the "Accountability Plan Progress Report"). The Accountability Plan Progress Report must contain data addressing each goal and measure in the Accountability Plan and should report data as required by the Trustees in order for the Trustees to substantiate outcomes. The Accountability Plan Progress Report shall be prepared pursuant to any requirements set forth by the Trustees, including the Annual Reporting Guidelines. To the extent permitted by the Regents, the Accountability Plan Progress Report may be submitted in satisfaction of the requirement set forth at paragraph 6.1(c) of this agreement. Should the Accountability Plan Progress Report indicate that the School has not met one or more of the goals in its Accountability Plan, the Trustees may require the School to submit a corrective plan pursuant to paragraph 8.3 of the Charter Agreement.

(e) the school calendar for the present school year, such calendar to be consistent with paragraph 2.7(b) of the Charter Agreement, setting forth the days and hours of operation for the regular school session as well as the summer session in the succeeding calendar year, if any is to be provided; and

(f) a statement of assurances relating to compliance with requirements under the Charter and applicable law, the form and requirements of which shall be determined by the Trustees and contained in the Annual Reporting Guidelines; and

(g) a School Trustee Disclosure Report for each School Trustee who served on the School Board during the preceding year in such form and manner as prescribed by the Trustees and as contained in the Annual Reporting Guidelines; and

(h) a statement regarding rates of attrition for both students and teachers during the previous fiscal and school year, the form and requirements of which shall be determined by the Trustees and as contained in the Annual Reporting Guidelines; and

(i) a brief statement, as more fully described in the Annual Reporting Guidelines, setting forth changes to the School's educational program and mission as well as governing and organizational structures, during the previous fiscal and school year.

6.2 Financial Reports. The School Corporation shall provide the financial reports required by paragraphs 5.2, 5.3 and 5.5 of the Charter Agreement pursuant to the terms and dates specified therein.

## SECTION 7. OTHER COVENANTS AND WARRANTIES

7.1 Compliance with Laws and Regulations. The School and School Corporation shall operate at all times in accordance with the Act and other applicable laws and shall meet the same health and safety, civil rights, and student assessment requirements as are applicable to other schools.

7.2 Nonsectarian Status. The School shall be nonsectarian in its programs, admissions policies, employment practices and all other operations. The School Corporation shall not be wholly or in part under the control or direction of any religious denomination.

7.3 F.O.I.L. and Open Meetings Law. The School Corporation shall maintain and implement policies in order to ensure that it is in compliance with Articles Six and Seven of the Public Officers Law and all applicable corresponding regulations.

7.4 Non-discrimination. The School Corporation shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by any other public school. It shall take all steps necessary to ensure that discrimination does not occur, as required by federal civil rights law.

7.5 Transactions with Affiliates. The School Corporation shall not, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any affiliate of the School Corporation, any member past or present of the School Board or any employee past or present of the School Corporation, or any immediate family member of the foregoing individuals, unless the terms of such transaction (considering all the facts and circumstances) are no less favorable to the School Corporation than those that could be obtained at the time from a person that is not such an affiliate, member or employee or an individual related thereto.

## SECTION 8. RENEWAL; CORRECTIVE PLANS; TERMINATION

8.1 Renewal Notice. No later than August 1 in the calendar year prior to expiration of the Charter, the School Corporation may provide to the Trustees an application to renew the Charter in accordance with subdivision 2851(4) of the Education Law (the "Renewal Application"). The Trustees may, at their sole discretion, waive the August 1 date restriction upon a written request from the School. The Renewal Application shall contain:

(a) a report of the progress of the School in achieving the educational objectives set forth in the charter; and

(b) a detailed financial statement disclosing the cost of administration, instruction, and other spending categories for the School that will allow a comparison of such costs to other schools, both public and private; and

(c) copies of each of the Annual Reports of the School, including the School report cards and the certified financial statements; and

(d) evidence of parent and student satisfaction; and

(e) such other material and information as is required by the Trustees.

8.2 Approval or Denial of Renewal. In the event that the Trustees do not approve the Renewal Application, then the parties to the Charter shall fulfill their respective obligations hereunder to the end of the term of this Charter, and the School shall follow the procedures for dissolution as set forth in subdivision 2851(2)(t) of the Education Law as supplemented by paragraph 8.5 of this Charter Agreement. In the event that the Renewal Application is approved, the Trustees, pursuant to subdivision 2851(4) and section 2852 of the Education Law, shall enter into a proposed charter with the School Corporation and forward the proposed charter and Renewal Application to the Regents. Nothing herein shall obligate the Trustees to approve a Renewal Application.

8.3 Corrective Plans. If the Trustees determine that the School Corporation is not progressing toward one or more of the performance or education goals set forth in the Charter, that the quality of the School's educational program or governance practices are not satisfactory, or that the School Corporation is not in compliance with the terms and conditions of the Charter, including but not limited to the requirements of the Charter Agreement and the Monitoring Plan, then the Trustees, in consultation with the School Corporation, may develop and require the School Corporation to implement a corrective plan (the "Corrective Plan"). Nothing contained herein shall require the Trustees to undertake the development of a Corrective Plan or be in derogation of the Trustees' or the Regents' ability to revoke the Charter, place the School Corporation on probationary status, or initiate mandatory remedial action in accordance with the Act and paragraphs 8.4 and 8.5 of the Charter Agreement.

8.4 Grounds for Termination or Revocation. This Charter may be terminated and revoked:

(a) by the Trustees or the Regents in accordance with and for the grounds set forth at section 2855 of the Education Law; or

(b) by mutual agreement of the parties hereto.

8.5 Notice and Procedures for Termination or Revocation. Should the Trustees determine that one of the grounds for termination or revocation of the Charter has occurred or is occurring, the Trustees may, at their discretion, elect as follows:

(a) to terminate the Charter; or

(b) to place the School on probationary status and prepare and cause the School to implement a remedial action plan the terms and conditions of which the School must agree to abide by in all respects.

Should the Trustees elect to terminate the Charter, where the School is not on probation, notice of such shall be provided to the School Board at least thirty (30) days prior to the effective date of the proposed termination. Such notice shall include a statement of reasons for the proposed termination. Prior to termination of this Charter, the School shall be provided an opportunity to be heard and present evidence in opposition to termination. Should the Trustees elect to place the School on probationary status, such probation shall be effective upon notice to the School Corporation. In the event that the School is placed on probationary status, and does not abide by the terms and conditions of the remedial action plan to the satisfaction of the Trustees, or refuses to implement such plan, the Trustees may declare the Charter terminated with notice of such decision to be given to the School Board at least five (5) days prior to the termination date set by the Trustees.

8.6 Dissolution. In the event of termination of the Charter (whether prematurely or otherwise), the School Corporation shall establish and follow procedures consistent with those, required by subdivision 2851(2)(t) of the Education Law, for the transfer of students and student records to the school district in which the School is located and for the disposition of the School Corporation's assets to the school district in which the School is located or another charter school located within the school district. In addition, in case of such an event, the School Corporation will follow any additional procedures required by the Trustees or the Regents to ensure an orderly dissolution process, (including the appointment of pupil placement coordinators, a custodian of records and any other necessary personnel). The Trustees may require the creation of an escrow or reserve account for the purposes of dissolution in an amount to be determined but not to exceed \$45,000 and may require such account to be established and funds disbursed therefrom pursuant to terms and conditions determined by the Trustees or their designee.

## SECTION 9. MISCELLANEOUS

9.1 Disclaimer of Liability. The parties acknowledge that the School Corporation is not operating as the agent, or under the direction and control, of the Institute, the Trustees or the Regents except as required by law or this Charter, and that none of the Institute, the Trustees or the Regents assumes any liability for any loss or injury resulting from:

(a) the acts and omissions of the School Corporation, its directors, trustees, agents or employees; or

(b) the use and occupancy of the building or buildings, occupied by the School Corporation, or any matter in connection with the condition of such building or buildings; or

(c) any debt or contractual obligation incurred by the School Corporation. The School Corporation acknowledges that it is without authority to extend the faith and credit of the Institute, the Trustees, the Regents or the public schools to any third party.

9.2. Receipt of Summons and/or Complaint. The School Corporation shall provide written notice to the Trustees within five (5) business days of the receipt of a summons

and/or complaint in which either the School Corporation or any member of the School Board (acting in his or her capacity as a member of the School Board) is a named party to the action.

9.3 Governing Law. This Charter Agreement shall be governed by, subject to and construed under the laws of the State of New York without regard to its conflicts of laws provisions.

9.4 Waiver. No waiver of any breach of this Charter Agreement shall be held as a waiver of any other or subsequent breach.

9.5 Counterparts; Signature by Facsimile. This Charter Agreement may be signed in counterparts, which shall together constitute the original Charter Agreement. Signatures received by facsimile by either of the parties shall have the same effect as original signatures.

9.6 Terms and Conditions of Operation. The parties hereto expressly agree that the Terms of Operation set forth overall goals, standards and general operational policies of the School, and that the Terms of Operation are not a complete statement of each detail of the School's operation. To the extent that the School Corporation desires to implement specific policies, procedures or other specific terms of operation that supplement or otherwise differ from those set forth in the Terms of Operation, the School Corporation shall be permitted to implement such policies, procedures, and specific terms of operation without seeking the permission of the Trustees or a revision to the Charter, provided that such policies, procedures and terms of operation and any changes thereto are not otherwise prohibited, circumscribed or limited by the Act, other applicable law or the Charter. Where there is a conflict between the terms of the Charter Agreement and the Terms of Operation, the terms of the Charter Agreement shall govern. Where a provision of the Charter Agreement provides additional terms or conditions as to modifying a specific policy, provision or term of operation, such specific terms and conditions shall govern. Where a provision of the Additional Assurances and Terms conflicts with the Terms of Operation or the Charter Agreement such provision of the Additional Assurances and Terms shall govern.

9.7 Revision. This Charter Agreement may be revised only by written consent of the parties hereto and, in the case of material revisions, only pursuant to subdivision 2852(7) of the Education Law.

9.8 Assignment. This Charter Agreement may not be assigned or delegated by the School under any circumstances, it being expressly understood that the Charter granted hereby runs solely and exclusively to the benefit of the School Corporation.

9.9 Notices. Any notice, demand, request or submission from one party to any other party or parties hereunder shall be deemed to have been sufficiently given or served for all purposes if and as of the date, it is delivered by hand, overnight courier, facsimile (with confirmation) or within three (3) business days of being sent by registered or certified mail, postage prepaid, to the parties at the following addresses:

If to the School Corporation:

Merrick Academy - Queens Public Charter School  
207-01 Jamaica Avenue  
Queens Village, N.Y. 11428

With a copy to:

Joan Flowers, Esq.  
The Law Offices of Joan Flowers Esq.  
219-10 South Conduit  
Springfield Gardens, N.Y. 11413

If to the Trustees:

Charter Contract Desk  
Charter Schools Institute  
74 North Pearl Street, 4<sup>th</sup> Floor  
Albany, New York 12207.

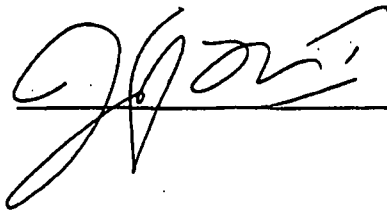
9.10 Severability. In the event that any provision of this Charter Agreement or the Terms of Operation thereof as to any person or in any circumstances shall be determined to be invalid, unlawful, or unenforceable to any extent, the remainder of this Charter Agreement and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful or unenforceable, shall not be affected thereby, and each remaining provision of this Charter Agreement shall continue to be valid and may be enforced to the fullest extent permitted by law.

9.11 Entire Charter. Upon the Effective Date, the Charter supersedes and replaces any and all prior charters, agreements and understandings between the Trustees and the School.

9.12 Construction. This Charter Agreement shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Charter Agreement.

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BOARD OF TRUSTEES OF THE  
STATE UNIVERSITY OF NEW YORK

 3/31/05  
Date

By: James D. Merriman IV, acting for the Board of  
Trustees of the State University of New York

Title: Executive Director, Charter Schools Institute,  
State University of New York

School: Merrick Academy -- Queens Public Charter School

\_\_\_\_\_  
Date

By: Juanita Watkins

Title: Chair, Board of Trustees

BOARD OF TRUSTEES OF THE  
STATE UNIVERSITY OF NEW YORK

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Date

By: James D. Merriman IV, acting for the Board of  
Trustees of the State University of New York

Title: Executive Director, Charter Schools Institute,  
State University of New York

School: Merrick Academy -- Queens Public Charter School

Juanita Watkins 3/29/05  
Date

By: Juanita Watkins

Title: Chair, Board of Trustees

**MERRICK ACADEMY – QUEENS PUBLIC  
CHARTER SCHOOL**

**EXHIBIT A**

**TERMS OF OPERATION**



#### IV. IF THE SCHOOL'S CHARTER IS RENEWED, WHAT ARE THE PLANS FOR THE TERM OF THE NEXT CHARTER?

##### B. WHAT ARE THE SCHOOL'S FUTURE ENROLLMENT PLANS?

In strengthening the Academy's curriculum, instructional leadership and overall academic program, the Board, Principal and Victory have embarked on a plan to build Merrick into a high-performing elementary school. Projected enrollment is as follows:

**Merrick Future Enrollment Plan**  
SY 2004-2005 through 2009-2010

Grades	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
<b>K</b>	2	4	4	3	3	3
<b>1</b>	2	4	4	4	3	3
<b>2</b>	3	2	4	4	4	3
<b>3</b>	3	3	2	4	4	4
<b>4</b>	3	3	3	2	4	4
<b>5</b>	3	3	3	3	2	4
<b>6</b>	2	-	-	-	-	-
<b>Total Classes</b>	18	19	20	20	20	21
<b>Expected Enrollment</b>	450	475	500	500	500	525
<b>Maximum Enrollment</b>	486	513	540	540	540	567

The Academy targets a class size of 25 students and at this time has no plans to exceed this level. Therefore, the expected enrollment at capacity would be 525 students. However, from time to time, the Academy may elect to enroll more students in each classroom to provide its services to a greater number of children. At no time will the Academy exceed an average of 27 students per class. Therefore, the maximum enrollment for this charter period will be 567 students.

**DRAFT**

**MERRICK CHILDREN'S ACADEMY**

**CALENDAR  
2004-2005**

M	Aug. 23-Sept. 3	Pre-Service Professional Development for all Staff
M	Sept. 6	Labor Day
T	Sept. 7	All Students Report (full day)
Th, Fri	Sept. 16, 17	Rosh Hashanah – Schools Closed
M, T, W	Sept. 20, 21, 22	All Students Report (Full Day) ITBS Testing
M	Oct. 11	Columbus Day – Schools Closed
T	Nov. 2	Election Day – Students Do Not Report* Professional Staff Development Day
W, Th	Nov. 3, 4	Open School – Evening (Full Day of School)
Th	Nov. 11	Veterans Day – Schools Closed
Th, F	Nov. 24, 25	Thanksgiving Recess – Schools Closed
Fri-Sun	Dec. 24-Jan. 2	Winter Recess – Schools Closed
M	Jan. 3	Students Return to School
W, Th	Jan. 12, 13	Open School – Evenings (Full Day of School)
M	Jan. 17	Dr. Martin Luther King, Jr. Day – Schools Closed
M-F	Feb. 21-24	Mid-Winter Recess – Schools Closed
W, Th	Mar. 16, 17	Open School – Evenings (Full Day of School)
F-Sun	Mar. 25-Apr. 1	Spring Recess – Schools Closed
M	Apr. 2	Students Return to School
M	May 30	Memorial Day - Schools Closed
W-F	June 1-3	ITBS Testing – All Students Report
Th	June 9	(Bklyn-Queens Day) Schools Closed
F	June 24	Last Day for Students
T	June 28	Last Day for Teachers

Please keep on your refrigerator for reference during the year.  
If NYC School District is closed due to weather, Merrick will be closed.

[revised: 3/10/04]

**Merrick Academy – Queens Public Charter School  
Proposed Daily Schedule  
Grades K – 5**

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- 7:30 – 7:55      Breakfast
- 8:00              School Begins
- 8:00 – 8:25      Morning Meeting
- Review Objectives for the Day
  - Review Problem of the Day

	Grade K	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5
Literacy Block/ Math Block	8:25 – 10:55	8:25 – 11:25	8:25 – 11:45	8:25 – 11:00	8:25 – 11:00	8:15 – 11:00
Integrated Literature & Writing Activities/ Math Reinforcement				11:00 – 12:25	11:00 – 12:55	
Lunch & Recess	11:00 – 12:15	11:25 – 12:45	11:50 – 1:05	12:25 – 2:00	1:00 – 1:55	11:00 – 12:15
Integrated Literature & Writing Activities/ Math Reinforcement	12:20 – 1:20	12:50 – 1:50	1:10 – 2:10			12:20 – 1:20
Core Knowledge Block Science/Social Studies	1:25 – 3:40	1:50 – 3:40	2:10 – 3:40	2:00 – 3:40	2:00 – 3:40	1:20 – 3:40

- 3:40 – 4:00      Closing Routines
- Reflections
  - Evaluation
  - Dismissal

Merrick Academy

**Mission statement for the school**

The mission of the Merrick Academy is to create one of the finest public schools in America through use of the charter school process; to serve the "at risk" children of Springfield Gardens and Jamaica, Queens; and to create a role model for charter public school design that can be replicated in disadvantaged neighborhoods everywhere.

## **Key Design Elements**

### **Merrick Academy – Queens Public Charter School**

The Merrick Academy – Queens Public Charter School has made a commitment to the students, parents and the southeast Queens community to provide an academic program that will prepare students to meet and exceed New York State performance standards.

The school curriculum in both English Language Arts and Mathematics includes scientifically-based research to support its success and is in compliance with New York State learning standards and NCLB mandates.

The school believes in using data to inform instruction and in providing differentiated instruction to support individual student needs. To this end, the school's grade level instructional teams meet regularly to review curriculum needs, assessment data and the professional development of teachers.

The school believes in establishing a learning community where teachers use student work, research and best practice to improve student performance and teachers' skill.

The school provides a comprehensive professional development program informed by a needs assessment and completed by teachers, the Principal and management company.

The school offers a strong student summer homework program to address the regression in learning that occurs over the summer.

The school will provide a two and one-half hour block of instruction in the Balanced Literacy curriculum each day for all students. Curriculum components include the Scott Foresman Reading Program and a readers' and writers' workshop, as modeled by the National Writing Project and the Great Source Writing Program, to support teachers in the implementation of explicit writing skills and strategies. In addition, the curriculum will use trade books and foster classroom libraries. A phonics and phonemic awareness component will develop and support basic reading skills.

Each school day, the school will provide every student with one hour and thirty minutes of instruction in Everyday Math, a curriculum also consistent with NCLB, aligned with the State learning standards and assessments, and with significant opportunities for enrichment and experiential learning. Key components of the Everyday Math curriculum include: an introduction for children to all the major mathematical content domains, number sense, algebra, measurement, geometry, data analysis and probability beginning in kindergarten; and an emphasis on developing within children higher-order and critical thinking skills, using everyday, real-world problems and situations. The curriculum blends student exposition and discussion, individual and group work projects, and explorations, investigations and math games to promote and ensure fact power.

The school's assessment process will be comprehensive and rigorous. Assessment components for pre-assessment, unit, mid-year and end-of-year tests that provide both ongoing assessment and data on end-of-year student performance will be used. We believe that a direct link of assessment to instruction will provide teachers with valuable information to guide instruction and learning.

44. Attach the code of ethics applicable to the trustees, officers and employees of the charter school.

Code of Ethics

- No trustee, officer or employee of the Merrick Academy should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest.
- The Board of Trustees, or a board of ethics which it may establish, shall render advisory opinions to trustees, officers and employees with respect to the code of ethics.
- Actions by Victory Schools Inc., its officers, directors, subcontractors, agents and employees which are for profit, but which are generally consistent with the academic mission of the Academy or with VSI's management contract with the Academy, shall be permitted.
- Any such trustee, officer or employee who shall knowingly and intentionally violate any of the provisions of this code may be suspended or removed from office.

**BY-LAWS**  
**OF**  
**THE MERRICK ACADEMY – QUEENS PUBLIC CHARTER SCHOOL**

**ARTICLE I**

**Name and Office**

Section 1. Name. This Corporation is a charitable, educational and non-profit corporation and shall be known as the "Merrick Academy – Queens Public Charter School," herein referred to as "the Academy."

Section 2. Office. The Academy shall have its principal office in the City of New York, State of New York and shall be deemed, for the purposes of venue in civil actions, to be an inhabitant and a resident thereof. The Academy may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

**ARTICLE II**

**Board of Trustees**

Section 1. Authority. The business and affairs of the Academy shall be managed and controlled under the general direction of the Board of Trustees of the Academy (the "Board of Trustees" and each member thereof, a "Trustee") in accordance with the purposes and limitations set forth herein and in the Charter, dated as of February 1, 2000 between the Academy and the Board of Trustees of the State University of New York, and as approved by the New York State Board of Regents on May 4, 2000.

Section 2. Powers. The Board of Trustees of the Academy shall:

A. Formulate the general policy to be followed in the management of the affairs, property and business of the Academy;

B. Designate an Executive Committee and the other standing committees designated under Articles IV and V hereof by resolution passed by a majority vote of the Board of Trustees no later than its third meeting, each committee to consist of three (3) or more Trustees. The Chairperson of the Board of Trustees may designate one or more Trustees as alternate members of any standing committee, and such alternate members may replace any absent or disqualified member at any meeting of such committee. A Trustee may serve on more than one committee. Each

standing committee shall serve at the pleasure of the Board of Trustees, and shall have such name(s) as may be determined from time to time by resolution adopted by a majority vote of the Board of Trustees. Each committee shall keep regular minutes of its meetings, if any, and report the same to the full Board of Trustees;

C. Create such special committees, from time to time, as may be deemed desirable by the Board of Trustees. The Chairperson of the Board of Trustees shall appoint the members of such committees;

D. Hire the Academy's School Director and approve the hiring of the teachers, based upon nominations submitted by Victory Schools, Inc. ("Victory Schools"); and, approve or reject a decision by Victory Schools to dismiss the Academy's School Director;

F. Monitor Victory Schools' budgeting, regulatory, financial, compliance, and academic performance with respect to the Academy and discharge Victory Schools if contractually-established performance standards are not met; and

G. Remove a Trustee for cause by a majority vote of the Board of Trustees.

All powers exercised by the Board of Trustees shall be consistent with the objectives and purposes for which the Academy is formed and the provisions of Section 501(c)(3) of the Internal Revenue Code.

Section 3. Composition. The Board of Trustees shall be composed as follows:

A. Those individuals who are named as Proposed Trustees in the application to operate the Academy, submitted to the Charter School Institute on September 30, 1999 (the "Application"), with the following clarifications:

- (i) The School Director of the Academy shall be an ex-officio and a non-voting Trustee for the length of his or her term as School Director of the Academy;
- (ii) The president of the Parent-Teacher's Association of the Academy ("PTA") shall be a voting Trustee for the length of his or her term as president of the PTA; and
- (iii) The chief executive or other senior officer of Victory Schools shall be an ex-officio and non-voting Trustee for the length of Victory Schools' management of the Academy.

B. Additional Trustees from among individuals of high moral character who are leaders in the Academy's community or in the nation, and who have evidenced sincere concern for the welfare of children and the improvement of education. Each Trustee shall be at least eighteen (18) years of age; provided, however, that one Trustee may be below eighteen (18) years of age but not less than sixteen (16) years of age and such Trustee shall be an ex-officio and non-voting Trustee. To become a Trustee, a person shall be nominated by a current Trustee. Trustees shall be elected by a majority vote of the Trustees present at a meeting of the Board of Trustees, provided that those present constitute a quorum.

Section 4. Term of Office. Trustees, other than those ex-officio members named in Section 3(A), will be elected to serve terms of five (5) years dating from the day of their election and extending to the date of the annual meeting of the Trustees five (5) years thereafter. All Trustees shall be eligible for re-election.

Section 5. Number of Trustees. The number of Trustees constituting the entire Board of Trustees after the first annual meeting of the Board of Trustees shall be at least three (3), but in no event shall the entire Board consist of more than fifteen (15) Trustees.

Section 6. Vacancies. Temporary vacancies shall be filled for the remainder of an unexpired term by vote of a majority of Trustees then in office.

Section 7. Compensation. Trustees shall not receive any salary, fees or other financial compensation for their service to the Academy, but by resolution of the Board of Trustees, expenses related to attendance of special meetings of the Board of Trustees, if any, may be reimbursed. Nothing herein shall be construed to preclude any Trustee from serving the Academy in any other capacity and receiving compensation therefor.

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Section 8. Meetings. The Board of Trustees shall meet at least bi-monthly during the Academy's school year and as appropriate over the summer recess on dates to be determined in advance by the Executive Committee; one of these meetings shall be the annual meeting. Special meetings of the Board of Trustees may be called at any time by the Chairperson of the Board of Trustees, or upon a majority vote of the Trustees or a majority vote of the Executive Committee. Provided there is a quorum, every meeting of the Board of Trustees held to discuss public business will be open to the general public, including official meetings of committees and subcommittees. The Board of Trustees may invite public comment during such meetings at times designated by the Chairperson of the Board of Trustees but the Board of Trustees may, at its discretion, limit public comments to ten (10) minutes per person or such lesser time period as the Board of Trustees may set. Times and locations of each meeting shall be set by the Board of Trustees.

Section 9. Proxies. At all meetings of the Board of Trustees, a Trustee may vote in person, by proxy executed in writing by the Trustee, or by the Trustee's duly authorized attorney-in-fact. Such proxy shall be filed before or at the time of the meeting with the Secretary of the Board of Trustees or such other Trustee designated by the Chairperson of the Board of Trustees. A validly executed proxy shall continue in full force and effect unless (i) revoked by the Trustee executing it prior to the vote by a writing signed by the Trustee and delivered to the Board of Trustees stating that it is revoked or by a subsequent proxy executed by the Trustee revoking the earlier proxy or by the Trustee's attendance at the meeting and voting in person; or (ii) written notice of the death or incapacity of the maker of the proxy is received by the Board of Trustees prior to the vote.

Section 10. Executive Session. To enter into executive session, a motion for executive session must be made during a meeting by a Trustee, the subject of the executive session must be specifically identified, and the motion to conduct the executive session must be carried by a majority vote of the Trustees. Topics for an executive session will be limited to those

confidential matters identified in the Open Meetings Law of New York for Public Officials, as amended from time to time.

Section 11. Notices. To the extent practicable, written notice of meetings of the Board of Trustees shall be given to Trustees at least ten (10) days prior to the date set for such meeting. Notice thereof shall state the time and place of the meeting and, in the case of a special meeting, the purpose or purposes for holding such meeting and the Trustee(s) who called for the special meeting.

Section 12. Notice to the General Public. If a Board of Trustees meeting is scheduled at least one week in advance, notice of its time and place shall be given to the news media and conspicuously posted in one or more public locations at least 72 hours before the meeting. If a meeting is scheduled less than one week in advance, notice of the time and place of the meeting shall be given to the news media, to the extent practicable, and shall be conspicuously posted in one or more public locations at a reasonable time before the meeting.

Section 13. Quorum. At all meetings of the Board of Trustees, a majority of the Trustees, represented in person or by proxy, shall also constitute a quorum; provided, however, that a majority of the Executive Committee shall constitute a quorum of the full Board of Trustees at all meetings. A quorum is required for the transaction of business of the Academy at all meetings of the Board of Trustees or any committee thereof.

Section 14. Voting. Each member of the Board of Trustees shall be entitled to one vote upon each matter submitted to a vote at meetings of the Board of Trustees. The majority vote of those Trustees present and entitled to vote at a duly organized meeting of the Board of Trustees shall decide any question put to a vote.

Section 15. Action Without a Meeting. Any action required or permitted to be taken by the Board of Trustees or any committee thereof may be taken without a meeting if all Trustees or members of the committee consent in writing to the adoption of a resolution authorizing such action. The resolution and written consents thereto shall be filed with the minutes of the proceedings of the Board of Trustees.

Section 16. Resignations. Any Trustee may resign at any time by giving written notice of his or her resignation to Chairperson of the Board of Trustees. Any such resignation shall take effect at the time specified therein or, if the time when it shall become effective is not specified therein, immediately upon receipt. Unless otherwise specified therein, the acceptance of any such resignation shall not be necessary to make it effective.

### ARTICLE III

#### Officers

The Board of Trustees shall elect by majority vote, from among the Trustees, the following officers:

Section 1. Chairperson of the Board of Trustees. The Chairperson of the Board of Trustees shall preside over all meetings of the Board of Trustees. In his or her absence, the Secretary, or the Trustee in attendance possessing the most seniority in that office, in that order, shall preside. The Chairperson of the Board of Trustees shall appoint members of special committees, if any. He or she shall also perform such other duties as may from time to time be assigned to him or her by the Board of Trustees or Executive Committee.

Section 2. Secretary. The Secretary shall keep, or cause to be kept, the minutes of all Board of Trustee and Executive Committee meetings. He or she shall be custodian of the records and the seal of the Academy and affix and attest the seal to all documents to be executed on behalf of the Academy under its seal. He or she shall see that all notices are duly given in accordance with the provisions of these Bylaws and as required by law. He or she shall perform all duties incident to the office of Secretary and such other duties as may from time to time be assigned to him or her by the Board of Trustees or the Executive Committee.

Section 3. Treasurer. The Treasurer shall have the custody of the funds and securities of the Academy and shall cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the Academy, and shall deposit or cause to be deposited all monies and other valuable effects in the name and to the credit of the Academy in such depositories as may be designated by the Board of Trustees or the Executive Committee. The Treasurer shall disburse the funds of the Academy as may be ordered by the Board of Trustees, or the Executive Committee, taking proper vouchers for the disbursements, and shall render to the Chairperson, the Board of Trustees, and the Executive Committee, at meetings and whenever they may require it, an account of all transactions as Treasurer and of the financial condition of the Academy, provided that routine transactions may be delegated to the staff of the Academy. The Treasurer will work with Victory Schools to accomplish the aforementioned duties in accordance with the contractually-established delegation of certain such duties to Victory Schools. The Treasurer shall perform such other duties as the Board of Trustees or the Executive Committee may from time to time prescribe or require.

## ARTICLE IV

### Executive Committee of the Board of Trustees

Section 1. Appointment. There shall be an Executive Committee of the Board of Trustees, which committee shall consist of the Chairperson of the Board of Trustees, who shall preside at all meetings; the Secretary; the Treasurer; and not less than three other Trustees, one of whom shall be the chief executive or other senior officer of Victory Schools, elected by the full Board of Trustees or, in the absence of such election, appointed by the Executive Committee.

Section 2. Quorum. A majority of the members of the Executive Committee shall constitute a quorum of the entire Board of Trustees at all meetings of the full Board of Trustees.

Section 3. Powers. The Executive Committee shall have and may exercise all the powers of the Board of Trustees in the management of the business and affairs of the Academy during intervals between meetings of the Board of Trustees, including the power to appoint officers of the Board

of Trustees; to hire the Academy's School Director, Site Manager and teachers; to affix the seal of the Academy to all instruments that may require such action; and in general to control and manage the affairs of the Academy. The Executive Committee shall inform the Board of Trustees of all of its actions at the next meeting of the Board of Trustees. The Executive Committee's actions must be ratified by majority vote of the full Board of Trustees at such meeting, unless otherwise decided by a majority vote of the Board of Trustees.

Section 4. Meetings. Meetings of the Executive Committee may be called at any time by the Chairperson of the Board of Trustees or a majority vote of the members of the Executive Committee.

Section 5. Notice. Notice of all meetings of the Executive Committee shall be given by either written notice, facsimile, telegraph or other means of electronic transmission to all Trustees. To the extent possible, notice shall be transmitted at least ten (10) days prior to such meeting. A waiver of notice in writing, signed by the person or persons entitled to such notice and filed with the records of the meeting, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

## ARTICLE V

### Standing Committees

Section 1. Grievance Committee. The Grievance Committee shall be vested with the responsibility for investigating and reviewing complaints received by the Board of Trustees from the community. The Grievance Committee, which shall consist of Trustees who are not parents, teachers and administrators of the school, shall make non-binding recommendations to the Board of Trustees.

Section 2. Budget and Finance Committee. The Budget and Finance Committee shall review the regular budget and other fiscal reports to be submitted by Victory Schools to the Board of Trustees on a quarterly basis, or at such other times as required by the Board of Trustees. The Treasurer shall be the chairperson of this committee.

Section 3. Development Committee. The Development Committee shall be vested with the responsibility of securing general and special purpose contributions to the Academy.

Section 4. Program Committee. The Program Committee shall plan and coordinate programs for the Academy that shall be designed to advance the purposes of the Academy, either alone or in cooperation with others.

## ARTICLE VI

### School Director

Section 1. Selection. A School Director nominated by Victory Schools shall be appointed and employed by the Board of Directors.

Section 2. Powers. The School Director shall be responsible for the enrollment, safety, education and behavior of students; for the hiring, training, promotion and dismissal of teachers; for parent involvement, parent communication and parent satisfaction; and for relations with the community as a whole. The School Director shall submit to the Board of Trustees, at a regularly scheduled meeting no fewer than four (4) times per year and as requested, a full report on the condition and progress of his or her responsibilities. He or she shall be present at all meetings of the Board of Trustees and the Executive Committee (except when in executive session), but shall not be entitled to vote.

## ARTICLE VII

### General Provisions

Section. 1. Fiscal Year. The fiscal year of the Academy shall be from July 1 through June 30. The fiscal year of the Academy may be changed by majority vote of the Board of Trustees.

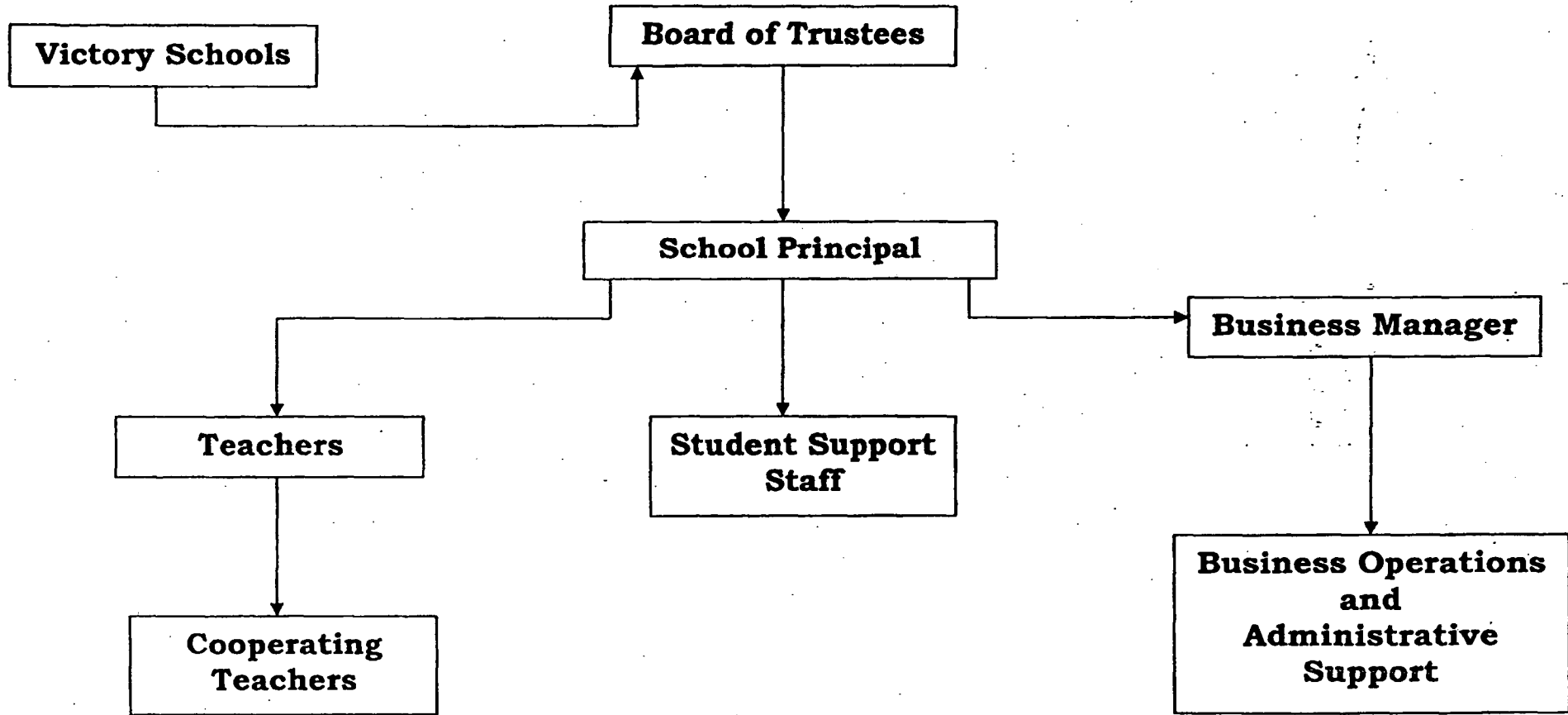
Section. 2. Books, List and Records. The Academy shall keep, at its office in written form, correct and complete books and records of account and minutes of the meetings of the Board of Trustees, the Executive Committee and other standing committees, and such special committees as from time to time may be designated by the Board of Trustees. When the Academy receives a request for information under the Freedom of Information Act, it will respond in the following manner: (1) within five (5) business days of receipt of a written request, the Academy will either make the information available to the person requesting it, deny the request in writing, or provide a written acknowledgment of receipt of the request that supplies an approximate date for when the request will be granted or denied; (2) if an individual is denied access to a record, he or she may, within thirty (30) days, appeal such denial to the School Director of the Academy or his or her designee; (3) upon timely receipt of such an appeal, the Academy will, within ten (10) business days of the receipt of the appeal, fully explain the reasons for further denial or provide access to the record sought. The Academy also will forward a copy of the appeal, as well as its ultimate determination, to the Committee on Open Government of New York State. The Academy may deny access to a requested record for a variety of reasons, including that: (1) such access would constitute an unwarranted invasion of personal privacy; (2) such records are compiled for law enforcement purposes; and, (3) such records are inter-agency or intra-agency materials which are not statistical or factual tabulations of data, instructions to staff that affect the public, or a final policy.

## ARTICLE VIII

### Amendments

Section 1. Amendments. These By-Laws may be amended, altered or repealed by the Board of Trustees by a three-fourths vote of those Trustees present at a duly organized meeting of the Board of Trustees, provided that those present constitute a quorum and further provided that notice of the meeting shall give notice of the proposed repeal, alteration or amendment of the By-Laws as a purpose of the meeting.

Merrick Academy – Queens Public Charter School  
School Organizational Chart



**Merrick Academy – Queens Public Charter School  
Board of Trustees Organizational Chart**

<b>Seat#</b>	<b>Type</b>	<b>Term Expires</b>	<b>Name of current occupant</b>
<b>1</b>	Non-restricted voting member; seat held individually	6/30/2010	Juanita Watkins
<b>2</b>	Non-restricted voting member; seat held individually	6/30/2010	Congressman Gregory Meeks
<b>3</b>	Non-restricted voting member; seat held individually	6/30/2010	Senator Malcolm Smith
<b>4</b>	Non-restricted voting member; seat held individually	6/30/2006	Darryl Greene
<b>5</b>	Non-restricted voting member; seat held individually	6/30/2007	Kimberly Francis
<b>6</b>	Non-restricted voting member; seat held individually	6/30/2007	Jacques Léandre
<b>7</b>	Non-restricted voting member; seat held individually	6/30/2007	Gerald Karkari
<b>8</b>	Non-restricted voting member; seat held <i>ex-officio</i> <i>PTA President</i>	6/30/2005	Florence Spruill

## VICTORY SCHOOLS, INC.

### AMENDED AND RESTATED CHARTER SCHOOL MANAGEMENT CONTRACT

This Amended and Restated Charter School Management Contract (this "Agreement") is made as of the 5th day of April 2001 between Victory Schools, Inc., a New York corporation ("VSI"), and Merrick Academy – Queens Public Charter School, Inc., a New York non-profit corporation (the "Charter School").

#### PRELIMINARY STATEMENT

WHEREAS, VSI is in the business of educating children in accordance with the philosophy set forth herein, and of operating and providing educational management services to charter schools;

WHEREAS, the Charter School is the grantee of a charter (the "Charter") from the State University of New York pursuant to the New York Charter Schools Act of 1998 (as such provisions may be amended and in effect from time to time, the "ACT") to operate as a charter school, and

WHEREAS, the Charter School desires that VSI shall undertake responsibility for all aspects of the management and operation of the Charter School, and shall provide substantially all educational services to the Charter School;

NOW, THEREFORE, in consideration of the foregoing, the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. **General Requirements.** For and during the term of the Agreement, VSI shall manage and operate the Charter School consistent with the mission, education philosophy, school design, governance structure, fee structure, discipline policy and other items, (the "Founding Design") set forth in the Charter School's application for charter (the "Application"), which is attached to this agreement for reference. The Charter School and each member of the Charter School's Board of Trustees (the "Board") will actively support VSI in accomplishing the Founding Design, in maintaining full enrollment, in maintaining community support, in preventing operating deficits and in achieving the academic and financial plans set forth in the Application. VSI, the Charter School and the Board believe that educational services can be most effectively delivered in a competitive, free-market environment. The Board, parents and others involved with the School recognize that it is appropriate for VSI to earn a profit for its management and financial services, and is consistent with attaining the School's stated educational objectives.

2. **The Role of VSI.** VSI is committed to the effective education of children in a supportive, stimulating and innovative environment. In furtherance of this commitment, the role of VSI is to assume broad responsibility for the management of the educational process at the Charter School, as more specifically delineated in Section 4 of this Agreement.

**3. The Role of the Charter School.** The role of the Charter School, acting through the Board, is to oversee and monitor the operations and educational process at the Charter School. The Board's role is as follows:

- (a) To establish and protect the Charter School's mission, consistent with the Founding Design.
- (b) To hire the management contractor and monitor its performance in meeting the Charter School's goals for student learning.
- (c) To receive and review VSI's reports.
- (d) To work closely with VSI during the term of this Agreement.
- (e) To set broad policy for the Charter School, consistent with the Founding Design.
- (f) To approve the Charter School's strategic plan, consistent with the Founding Design.
- (g) To work with VSI to facilitate day-to-day operations of the Charter School.
- (h) To participate in fund raising activities for the Charter School, and to seek to prevent operating deficits.
- (i) To approve the hiring and firing of a School Director by VSI.
- (j) To approve the hiring of teachers by VSI.
- (k) To approve an annual budget in accordance with Section 4.7.
- (l) To represent the school to the local community.

**4. Rights and Obligations of VSI.** In order to assist the Charter School in carrying out the terms of the Charter and in complying with its responsibilities thereunder and under the Act and any and all other applicable laws and regulations, VSI agrees to assume full responsibility for the education of children enrolled as students in the Charter School, and in connection therewith shall have the right and the obligation to perform the following duties:

**4.1 Education of the Students.** VSI shall assume and be solely responsible for all tasks and functions associated with the educational services to be provided to the children enrolled as students at the Charter School in accordance with the terms of the Charter, the Act and any and all other applicable laws and regulations. Such tasks and functions shall include, but shall not be limited to:

- (a) designing the educational programs and programs of instruction including rules and requirements relating to student admissions, bilingual education, student records, access to equal educational opportunities, school year and

school day requirements, special education, student testing, extra-curricular and co-curricular activities and programs;

- (b) selecting and acquiring on behalf of the Charter School instructional and curriculum materials, equipment and supplies, which may be acquired from affiliated or unaffiliated entities; provided, however, that if such materials, equipment and supplies are acquired from persons or entities affiliated with VSI, the prices paid for such items shall be reasonable and fair to the Charter School in light of the nature of the items purchased and the Board shall have the right to approve such affiliated transactions, such approval not to be withheld unreasonably;
- (c) selecting, hiring, reviewing, compensating and terminating all personnel associated with the Charter School on behalf of the Charter School, including without limitation its School Director, teachers, teaching assistants and all administrative and support staff; provided, however, that the Board shall approve (i) the hiring and firing of a School Director prior to VSI's hiring or firing of the School Director, and (ii) the hiring of teachers prior to VSI's hiring of teachers; provided further, that the School Director shall also have the right to terminate any teacher, teacher's assistant and/or member of the support staff, excluding the business manager, upon consultation with VSI and upon providing the Board with notification of same.
- (d) implementing and monitoring professional development activity requirements applicable to school Directors and appropriate administrative and instructional personnel.

**4.2 Management and Operation of the Charter School.** VSI shall be responsible for, and shall have the right to control, all aspects of the management and operation of the Charter School, including without limitation performing the following functions on behalf of the Charter School:

- (a) Generally managing the business administration of the Charter School, including the preparation and maintenance of operating procedures, marketing the Charter School and providing for all aspects of the day to day operation of the Charter School;
- (b) managing all personnel and payroll functions of the Charter School for all employees of the Charter School, as more specifically described in Section 4.5 below;
- (c) contracting with public or private entities or individuals for the provision of services, which shall include but not necessarily be limited to, transportation, custodial, and food services, and which services shall be paid for in accordance with the appropriate line items in the School's budget, provided, however, VSI shall obtain approval from the Board prior to entering into contracts for services or goods in excess of \$10,000

and such approval may be obtained for general authorization to enter into such contracts at the beginning of a fiscal quarter;

- (d) purchasing or leasing real estate for use as Charter School facilities, provided, however, VSI shall obtain approval from the Board prior to entering into contracts for the purchase or lease of real estate; provided further, that if such purchase or lease is from a person or entity affiliated with VSI the terms of such purchase or lease shall not be materially less favorable to the Charter School than comparable arrangements entered into between parties acting at arm's length and the Board shall have approved such affiliated transactions;
- (e) maintaining and operating the Charter School's facilities, including making any and all such improvements thereto as VSI shall deem necessary or appropriate to the attainment of the Charter School's educational objectives;
- (f) purchasing or leasing materials, supplies, and equipment for use at the Charter School;
- (g) providing or contracting for the provision of any other services, and acquiring or contracting for the acquisition of any other property, which VSI reasonably deems necessary to the attainment of the educational goals of the Charter School; and
- (h) designing and implementing the Charter School's student recruitment and enrollment procedures.

**4.3 Payment of Expenses.** VSI shall make payment, within commercially reasonable time periods, of all expenses of operating the Charter School, out of the funds turned over to it by the Charter School pursuant to Section 5.6 of this Agreement. VSI is specifically authorized to pay to itself, out of such funds, the management fees and fees for centrally provided services, provided for in Sections 6 and 4.7.

**4.4 Funding of Operating Deficits.** In the event that the cash receipts of the Charter School are insufficient to fund all of the cash expenditures required to be made by or on behalf of the Charter School for any fiscal year, VSI shall be obligated to contribute to the Charter School the full amount of such shortfall (any such advance being referred to herein as an "Operating Deficit Contribution") up to a total of \$1 million dollars. Such Operating Deficit Contribution(s), if any, shall bear no interest. It is further agreed that the first \$300,000 contributed by VSI for start-up expenses before the school's opening shall be treated as a non-refundable gift to the Charter School and not as an operating deficit contribution, loan or other financial obligation (as defined in Section 8.3 hereof) of the Charter School which would have to be repaid by the Charter School to VSI.

**4.5 Minimum Student Outcomes.** It shall be the responsibility of VSI that students at the Charter School shall, during or prior to the last year of the Term, attain the

performance standards committed to by the Charter School in its charter or, alternatively, shall attain a level of academic performance, as measured by the outcome of standardized, national or state-wide testing, which exceeds by not less than 10 percent the average performance of students of comparable socio-economic background on a district-wide basis.

**4.6 Staffing.** VSI shall be responsible, in its capacity as manager of the business and affairs of the Charter School, for all aspects of the hiring, management and training of the educational and administrative staff, including without limitation defining staff needs, hiring and firing of staff as necessary, setting compensation levels (subject to the requirements of applicable laws or regulations), directing the development and training of staff, establishing procedures for hiring substitute staff so that the Charter School is adequately staffed at all times, establishing personnel policies, establishing administrative procedures, preparing a parent handbook, establishing employee salaries and benefits, and preparing a staff handbook. Notwithstanding the foregoing, the Board's approval shall be necessary to hire and fire the School Director and to hire the teachers.

**4.7 Annual Budgets.** Not less than sixty (60) days prior to the beginning of each fiscal year, VSI shall prepare and submit to the Board for its review a proposed annual budget for such fiscal year. Not more than thirty (30) days after its receipt of the proposed annual budget, the Board shall notify VSI of any proposed amendments or revisions to the proposed budget; provided that in no event shall the Board propose to amend or revise allocations in the proposed budget for services provided centrally by VSI, ("Central Services"), so long as such allocation does not exceed, in the aggregate, 15% of gross revenues of the Charter School; provided, however, for purposes of determining the Central Services fee, gross revenue shall not include gifts, grants, and other contributions that are not directly generated by VSI. Upon receipt of any such proposed amendments or revisions, or upon expiration of such thirty (30) day period if no proposed amendments or revisions are received, VSI shall prepare a final annual budget for such fiscal year and provide a copy thereof to the Board for its approval. Such final annual budget shall, to the extent that VSI in its discretion considers it financially prudent and in the educational interests of the students to do so, incorporate any amendments and revisions proposed by the Board. VSI shall discuss with the Board or its designee any amendments or revisions proposed by the Board that VSI does not consider prudent to incorporate. VSI and the Board or its designee shall come to agreement on the resolution of any such proposed amendments or revisions prior to offering a final budget to the Board for its approval. The Board shall have final approval of the budget, which approval shall not be unreasonably withheld.

The Board will not mandate budget amendments or revisions that are inconsistent with the Founding Design or that would potentially create or increase an operating deficit payable by VSI without the consent of VSI. In the first year of operation, the budget proposed in the application shall be deemed to have been reviewed and accepted by the Board, with no additional budgets review or comment required.

**4.8 Fees.** VSI may charge such fees for extra services, such as after school and summer programs, as may be customary and consistent with local practice and applicable law.

**4.9 Fund Raising.** VSI shall provide assistance in the fund raising activities of the Charter School, and the Board shall cooperate fully with any and all such fund raising efforts. In this connection, the Board shall appoint a development committee and designate its chair. The Board and the development committee shall work cooperatively with VSI's staff to solicit private donations for the Charter School.

**4.10 Complaint Procedures.** The Board shall establish an advisory grievance committee to receive complaints, if any. Membership on such committee shall be limited to members of the Board who are not parents, teachers or administrators of the Charter School. The Board shall refer any complaint to such committee in the first instance, and such committee shall investigate and make nonbinding recommendations to the Board concerning the disposition of any such complaint. Upon receipt of any such recommendation, the Board shall confer with VSI regarding such complaint and such recommendation, and VSI and the Board shall cooperate with one another in all reasonable ways to address such complaint and, if appropriate, VSI shall act to correct any deficiencies found to exist.

**4.11 Reporting by VSI to the Charter School.** VSI shall provide the Charter School with the following reports:

- (a) At the time and in the manner provided in Section 4.7, proposed and final annual budgets for the Charter School;
- (b) Within 60 days after the close of each fiscal quarter, unaudited financial statements of the Charter School for the fiscal quarter most recently ended;
- (c) At every board meeting, or as requested by the Board, reports on educational and operational performance.

VSI shall also cooperate with the auditors retained by the Board to prepare annual audited financial statements of the Charter School. VSI shall coordinate its work and the work of the auditors so as to allow for the delivery of such audited statements within 120 days after the close of each fiscal year.

**4.12 Compliance with Laws; Licenses; Insurance.** VSI shall manage and operate the Charter School, and shall conduct all of its other affairs, in compliance with all applicable federal, state and local statutes, rules and regulations, including without limitation requirements prohibiting discrimination in employment. VSI shall procure all licenses or other approvals necessary to the conduct of its business and the operation of the Charter School. VSI shall procure and maintain for itself and on behalf of the Charter School insurance policies covering general and specific liability of the Charter School, including worker's compensation; covering members of the Board and employees of the Charter School; and any other insurance required by applicable law or by any agreement to which VSI or the Charter School is a party.

**5. Rights and Obligations of the Charter School.** The Charter School, acting through the Board, shall be ultimately responsible for the Charter School in accordance with the Charter, the Act and all applicable laws and regulations. In connection therewith the Charter School shall have the right and the obligation to perform the following duties:

**5.1 Supervision of Manager.** The Charter School, acting through the Board, shall monitor VSI's performance in the education of children at the Charter School, and VSI's compliance with the terms and provisions of this Agreement.

**5.2 Complaints.** The Charter School, acting through the Board, shall act jointly with VSI to resolve any complaints brought by parents, teachers or others relating to the Charter School's compliance with applicable legal requirements.

**5.3 Approval of Charter School Policies.** The Charter School, acting through the Board, shall cooperate with VSI in the preparation of, and shall have ultimate approval authority over, broad policies of the Charter School, including those relative to grade levels to be offered by the Charter School, and the number of students to be served by the Charter School. These policies will be consistent with the Founding Design.

**5.4 Maintenance of Charter.** The Charter School, acting through the Board, shall do, or cause to be done, all things necessary to ensure that all legal requirements, and all such conditions as may have been imposed by the authority granting the Charter, are fully complied with at all times. If the Charter School shall at any time receive notice from any public authority or other person that the Charter School is or may be in violation of the Charter, the Act or any provision of any applicable law or regulation, the Charter School shall immediately notify VSI of the asserted violation and shall thereafter work diligently with VSI to determine whether such asserted violation in fact exists, to correct any violation found to exist, and vigorously contest the asserted violation if the same is found not to exist.

**5.5 Tax Status.** Each of VSI and the Charter School shall take all reasonable steps to establish and maintain status as a tax-exempt organization under federal and, if applicable, state law such that contributions to the Charter School are deductible to the donor for federal income tax purposes. In the event of arbitration pursuant to Section 11 of this Agreement, each of the Charter School and VSI shall agree that, notwithstanding any claims for relief each may seek from the other, it will require that any relief granted be consistent with maintaining the Charter School's tax-exempt status. If the Board and VSI conclude it is appropriate to do so, the Charter School may seek to establish a separate tax-exempt organization to conduct fund raising activities and receive tax-deductible contributions in support of the Charter School and/or of education generally.

**5.6 Control of Funds.** Pending their disbursement, all funds of the Charter School shall be maintained in an account or accounts belonging to the Charter School, but over which VSI or its designee shall have signature authority. VSI shall have custody of all funds received by the Charter School and the Charter School shall immediately turn over to VSI all funds or other revenue received by the Charter School from any source, including without limitation all per pupil or other payments or reimbursements received from the local school district, the state, or any other source, and all contributions received

by the Charter School. VSI shall disburse such funds in the manner described in Section 4.3 except to the extent that any of such funds represent restricted gifts to the Charter School, in which event VSI shall disburse such funds in accordance with the applicable restrictions.

**6. Management Fees Payable to VSI.** As compensation to VSI for the services rendered to the Charter School pursuant to this Agreement, and for the financial risks being Assumed by VSI in undertaking to bear any funding deficits experienced by the Charter School, VSI Shall be entitled to receive an annual management fee equal to seven percent (7%) of the gross revenue of the Charter School; provided, however, for purposes of determining the management fee, gross revenue shall not include gifts, grants, and other contributions that are not directly generated by VSI. Such management fees shall be payable to VSI monthly on an estimated basis, and appropriate adjustments shall be made periodically as revenue is actually received by the Charter School. Notwithstanding VSI's obligation for Operating Deficit Contributions, if the Management Fee payable to VSI shall exceed the excess of revenues over expenses, the Charter School shall defer the payment of any such excess until such time as the excess of revenues over expenses is sufficient to permit the Charter School to make payment of such deferred Management Fee.

It is understood by both parties that all expenses incurred by VSI and its employees in the performance of this Agreement shall be included in the Management Fee and the charges for centrally provided services pursuant to Section 4.7 and shall not be reimbursable to VSI from the Charter School; provided, however, that in the event that VSI and the Charter School enter into a separate agreement or agreements whereby the Charter School commits to reimbursing VSI for certain expenses, this section shall not apply to such reimbursable expenses; and provided further, that this section shall not apply to budgeted expenses of the Charter School which are incurred by VSI rather than the Charter School for convenience or in anticipation of Charter School funds. Nothing in this section is intended to diminish VSI's responsibility to fund any Operating Deficit Contribution pursuant to Section 4.4.

**7. Effective Date and Duration.**

7.1 This Agreement is effective on the date hereof and, unless terminated by either party under the conditions in Section 8 of this Agreement, shall continue thereafter through the fifth anniversary of the date of the Charter.

7.2 Notwithstanding Section 7.1 of this Agreement, the Parties may agree to renew this Agreement for additional terms. Unless mutually agreed to by the parties in writing, the same terms and conditions as set forth herein shall apply to any renewal term. In the event the board elects not to renew this Agreement for any reason, then the Charter School shall pay any and all deferred management fees VSI may have accrued but deferred during the term of this Agreement pursuant to Section 6. Such management fees shall be paid ratably to VSI on a monthly basis within a 48 month period, but in no event shall monthly payments to VSI be less than seventy-five percent (75%) of monthly payments then currently paid by the Charter School to any other education management company, staff trainer, consultant, curriculum developer or provider of central services; provided, however, in the event that the Charter School student enrollment at any time

during the term of this Agreement increases by one hundred percent (100%) or more from the date hereof, the Charter School shall pay any deferred management fees to VSI within a 72 month period.

## **8. Termination.**

8.1 This Agreement may be terminated prior to the expiration of its term as set forth in Section 7 only under the following conditions:

- (a) if VSI shall under such laws as shall be applicable to it commence any case or proceeding, or file any petition in bankruptcy, or for reorganization, liquidation or dissolution, or be adjudicated, insolvent or bankrupt, or shall apply to any tribunal for a receiver, intervenor, conservator or trustee for itself or for any substantial part of its property; or if there shall be commenced against it any such action and the same shall remain undismitted; or if by any act it shall indicate its consent to, approval of, or acquiescence in any such proceeding, or the appointment of any receiver, intervenor, conservator or trustee for it or any substantial part of its property or shall suffer any of the same to continue undischarged; or if it shall become subject to any intervention whatsoever that shall deprive it of the management of the aggregate of its property or any substantial part thereof; or if it shall wind up or liquidate its affairs or there shall be issued a warrant of attachment, execution, or similar process against any substantial part of its property, and such warrant, execution or process shall remain undismitted, unbounded or undischarged for a period of ninety (90) days, this Agreement shall be deemed immediately terminated upon the occurrence of such event.
- (b) If VSI is found to have made fraudulent use of funds, or if an administrative or judicial body has revoked any license which may be required for VSI to carry on its business and perform its obligations and functions under this Agreement, this Agreement shall be deemed immediately terminated upon the occurrence of such event.
- (c) If there shall occur or shall become known to either party a material breach of the other's obligations, representation, or warranties under this Agreement, such party may terminate this Agreement upon thirty (30) days written notice to the other provided that the other party may prevent termination by curing such breach within thirty (30) days of receipt of such written notice.
- (d) If there shall become known to the Board at any time after the effective day of this Agreement a material breach of VSI's obligations under this Agreement which in the Board's reasonable judgment jeopardized the safety, health, or well-being of the students at the Charter School, the Board shall have the right to suspend this Agreement immediately if, within 30 days of its receipt of written notice of the alleged breach from the Board, VSI has not either cured the breach (or, if the problem cannot

reasonably be cured with such 30 day period, has not commenced and continued diligently to prosecute a cure), or established to the reasonable satisfaction of the Board that no material breach of VSI's obligations hereunder which jeopardizes the safety, health, or well-being of the students at the Charter School has in fact occurred.

- (e) If with respect to any two (2) consecutive fiscal years of the Charter School's operation VSI shall be required to make Operating Deficit Contributions under Section 4.4 of this Agreement which exceed five percent (5%) of the gross per pupil payment revenues of the Charter School for the relevant fiscal year, VSI may, upon written notice to the Charter School, terminate this Agreement effective as of the date specified in such notice, which date shall not be earlier than the later of (i) the date which is thirty (30) days after the date of such notice, or (ii) if school is in session when such notice is given, the last day of the current school year.
- (f) VSI shall have the right to terminate this Agreement, on thirty (30) days prior written notice to the Board, in the event that the Charter is revoked or not renewed, or if performance of its obligations hereunder is otherwise made impossible or impracticable by circumstances beyond VSI's control.
- (g) If, at the end of the third full year of academic operation, it is unambiguously apparent that VSI will fail to achieve acceptable academic performance as set forth in section 4.5 VSI can irrefutably demonstrate that its performance is acceptable by demonstrating any one of the following: (i) academic results equal or better to those committed to the chartering authority in the charter; (ii) a level of academic performance, as measured by the outcome of standardized, national or state-wide testing, which exceeds the average performance of students of comparable socio-economic background on a district wide basis, or (iii) a high level of parent satisfaction. A high level of parent satisfaction can be established among other ways, if 70% of parents responding to a questionnaire in the previous 12 months report that they believe the Charter School's academic program is "good" or "excellent". If the Board is dissatisfied with VSI's academic performance VSI will be notified by the Board in writing of the threat of termination pursuant to this section six months prior to the end of the third academic year, including the reasons for the Board's dissatisfaction and its evidence of academic shortfalls.

8.2 Upon expiration or termination of this Agreement for any reason, the parties agree to cooperate in good faith and use their best efforts to complete a prompt and orderly separation, it being the intention of both parties that the Charter School shall remain open and operating in its normal course in the event of such expiration or termination of this Agreement, in accordance with the following rights and obligations of the parties:

- (a) the Charter School shall have the right to use VSI Proprietary Information, as defined under Section 9 hereof, then currently in use by the Charter School, until the last day of the then current school year; provided, however, that in the event

that the Charter School enters into a contractual relationship during the then current school year with any other company for services substantially similar to the services to be provided herein by VSI, then the Charter School shall return all VSI Proprietary Information to VSI;

- (b) VSI shall provide the Charter School with all student records, financial reports, employee records and other Charter School data in VSI's possession and not currently in possession by the Board;
- (c) VSI shall provide the Charter School with reasonable educational and operational transition assistance for a period of sixty (60) days after the termination of this agreement, provided that the Charter School shall pay to VSI all fees, expenses and other costs of VSI consultants and agents who may, from time to time upon mutual agreement of the parties, provide assistance to the Charter School or its students.

8.3 In the event that the Board shall desire to terminate this Agreement under any provision hereof at a time when VSI has loaned funds to the Charter School, guaranteed any debt or other financial obligation of the Charter School, or provided credit support, whether in the form of a letter of credit or otherwise, to the Charter School, notwithstanding any other provision of this Agreement to the contrary, such termination shall be effective and the Charter School shall remain liable to VSI until the first date on which such loan has been repaid in full, such guarantee has been released by the beneficiary thereof, or such letter of credit or other credit support has been released and/or returned to VSI, all in accordance with the terms therein.

8.4 In the event of termination pursuant to this Article 8, neither party shall have any further obligations to the other hereunder except those which cannot be disclaimed by law, liability for amounts accrued and unpaid hereunder, and obligations expressly stated to be effective after the termination hereof.

## **9. Proprietary Information.**

9.1 The Charter School agrees that VSI and its affiliates own all trademarks, copyright and other proprietary information and rights, whether developed before or after the date of this Agreement, subsisting or created in VSI's instructional materials, training materials, instructional and management methods; and any other methods and materials developed by VSI, its employees, agents or subcontractors (collectively, the "VSI Proprietary Information"). The parties hereto acknowledge that during the term of this Agreement VSI may identify and disclose to the Charter School certain VSI Proprietary Information. The Charter School agrees that except to the extent necessary to carry out the terms and provisions of this Agreement, it shall not, nor shall it permit its employees or agents, to disclose, copy, publish, transmit or utilize in any fashion the VSI Proprietary Information, either during the term of this Agreement or after its termination, without the prior written consent of VSI.

10. **Indemnification.** Each party hereto shall indemnify and hold harmless the other party, its directors, officers, agents, servants, and employees, from and against all demands, claims, losses and expenses, arising out of or in connection with such indemnifying party's

functions under this Agreement as a result of negligence, intentional tort, fraud or criminal conduct on the part of such indemnifying party or any of such party's directors, officers, agents, servants, or employees.

## **11. Arbitration and Legal Services.**

11.1 All disputes arising out of or concerning this Agreement will be submitted to binding arbitration in accordance with the rules of the American Arbitration Association, provided that any relief granted shall be consistent with maintaining the Charter School's tax-exempt status.

11.2 It is agreed that the Board shall retain legal counsel to advise the Board, and that reasonable and necessary legal services in the normal and ordinary course of business shall be paid for out of the operating budget of the Charter School not to exceed \$15,000 per year.

## **12. Miscellaneous Provisions**

12.1 All communications and notices relating to this Agreement are to be delivered in writing, with confirmation of delivery, to the following address or to such other address as either party may designate from time to time.

If to the Charter School, to:

Ms. Alma Alston  
141-05 230 Place  
Laurelton, New York 11413

With a copy to:

Ms. Joan Flowers  
219-10 South Conduit  
Springfield Gardens, New York 11413

If to VSI, to VSI in care of:

Victory Schools, Inc.  
c/o Steven B. Klinsky  
712 Fifth Avenue, Suite 2300  
New York, NY 10103

12.2 The rights and remedies of either party under this Agreement shall be cumulative and in addition to any other rights given to either party by law and the exercise of any right or remedy shall not impair either party's right to any other remedy. This Agreement shall be governed by and construed and enforced in accordance with the internal laws of the State of New York (other than the provisions thereof relating to conflicts of law).

12.3 If any provisions of this Agreement shall be held, or deemed to be, or shall, in fact, be inoperative or unenforceable as applied in any particular situation, such circumstances shall not have the effect of rendering any other provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or paragraphs herein contained shall not affect the remaining portions of this Agreement, or any part hereof.

12.4 This Agreement shall not be changed, modified or amended nor shall a waiver of its terms or conditions be deemed effective except by a writing signed by the parties hereto. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supercedes all prior agreements or understandings, written or oral, in respect thereof, including a charter school management agreement, dated July 11, 2000 between the parties hereto.

12.5 The parties hereto acknowledge that the management of charter schools by third parties is an area presenting numerous legal uncertainties and ambiguities, and that the arrangements contemplated by this Agreement are new and unique, and in light of these factors agree to work together in good faith to resolve, in a manner consistent with the spirit and intent of the relationship created hereby, any new or unforeseen issues which arise in carrying out the terms of this Agreement.

12.6 The failure by either party hereto to insist upon or to enforce any of its rights shall not constitute a waiver thereof, and nothing shall constitute a waiver of such party's right to insist upon strict compliance with the provisions hereof. No delay in exercising any right, power or remedy created hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy by any such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No waiver by any party hereto to any breach of or default in any term or condition of this Agreement shall constitute a waiver of or assent to any succeeding breach of or default in the same or any other term or condition hereof.

12.7 The covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the heirs, legal representatives, successors and permitted assigns of the respective parties hereto.

12.8 This Agreement may not be assigned by either party without the prior written consent of the other party; provided, however, that VSI may assign this contract in connection with a sale, merger or other transaction in which all or substantially all the assets of VSI are sold or exchanged. Both parties acknowledge that an assignment of this Agreement by either party may constitute a revision of the Charter and may require approval by the Charter School Institute pursuant to the Act.

12.9 This Agreement may be executed by facsimile and in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument.

12.10 This Agreement can be modified or amended upon mutual written consent of the parties.

12.10 This Agreement can be modified or amended upon mutual written consent of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

VICTORY SCHOOLS, INC.

By:   
Steven B. Klinsky, President

MERRICK ACADEMY – QUEENS PUBLIC  
CHARTER SCHOOL, INC.

By:   
Ms. Juanita Watkins, Board Member

**MERRICK ACADEMY – QUEENS PUBLIC  
CHARTER SCHOOL**

**EXHIBIT B**

**MONITORING PLAN**

## **Monitoring Plan**

As provided in Paragraph 6.2 of the Charter Agreement, the School Corporation agrees to abide by a Monitoring Plan, the general components of which are set forth below. The requirements of the Monitoring Plan are in addition to any notification, record-keeping, or reporting requirements set forth in the Charter or applicable law, including any obligation to receive the written approval of the Trustees and/or to seek approval for revision of the Charter pursuant to subdivision 2852(7) of the Education Law.

- A. The School Corporation shall maintain the following records in its offices for inspection by the Trustees and the Regents:
1. Records concerning the enrollment and admissions process including all applications received and documents concerning the lottery process if conducted;
  2. Student academic and health records;
  3. Attendance records for students, including withdrawals of students from the school;
  4. Individual Education Programs for children with disabilities enrolled in the school;
  5. Staff rosters, including records of hiring, resignation, and termination of employees of the School Corporation;
  6. Evidence of credentials for all teachers;
  7. Evidence that required background checks, if any, have been conducted;
  8. Certificates of occupancy;
  9. Other facility-related certifications or permits;
  10. Lease agreements;
  11. Deeds;
  12. Loan documents;
  13. Contracts in excess of \$1,000;

14. School policies in areas such as financial management, personnel, student discipline (including suspension and expulsion), health and safety, student privacy and transportation;
15. Grievances made by students, parents, teachers, and other employees of the School Corporation, including, but not limited to , complaints received by the School Board pursuant to subdivision 2855(4), together with documentation of all actions taken in response;
16. Inventory of all assets of the School Corporation that have been purchased with public funds; and
17. Documents sufficient to substantiate the School's progress on the measurable goals set forth in the Accountability Plan.

B. To corroborate information submitted by the School Corporation to the Trustees, and in order to ensure the School Corporation's full compliance with the Act and the Charter, the Trustees will:

1. Make at least two visits to the School in its first year of operation. Such visits may include an inspection of the physical plant, all categories of records set forth in subsection A of the Monitoring Plan, interviews with the director of the school and other personnel, and observation of instructional methods. Where appropriate, such visits will decrease in frequency after the first year of operation;
2. Make unannounced visits to the School;
3. Require the School to make available necessary information in response to the Trustee's inquiries, including information necessary for the Trustees to prepare annual or semi-annual evaluations of the school's financial operations, academic program, future outlook and other areas;
4. Conduct internal investigations as appropriate in response to (i) concerns raised by students, parents, employees, local school districts and other individuals or groups, including but not limited to, complaints brought pursuant to subdivision 2855(4) of the Act. Where appropriate, the Trustees shall issue remedial orders as permitted by subdivision 2855(4) of the Education Law;
5. Review as necessary the school's operations to determine whether any changes in such operations require formal revision of the charter pursuant to subdivision 2852(7) of the Education Law and, if so, determine whether such revision should be recommended for approval;
6. Encourage relevant officers, employees and agents of the School Corporation to attend conferences, seminars and training sessions identified or sponsored by the Trustees and which are designed to assist the School Corporation to fulfill its mission.

- C. The School Board shall provide the Trustees with a copy of all minutes from each of its meetings and executive sessions on a timely basis.

**MERRICK ACADEMY – QUEENS PUBLIC  
CHARTER SCHOOL**

**EXHIBIT C**

**ACCOUNTABILITY PLAN**

**PROPOSED  
ACCOUNTABILITY PLAN**

**Merrick Academy –  
Queens Public Charter School**

For Use During Charter Term  
Commencing Fall 2005

Revised as of 3.30.04

## **MERRICK ACADEMY – QUEENS PUBLIC CHARTER SCHOOL**

### **Mission Statement**

The mission of the Merrick Academy is to become one of the finest public schools in America. The Academy will be built on the philosophy that all children can learn and the Academy will ensure that students exceed New York State performance standards.

The focus of the Academy will be on the core skills of reading, language and mathematics. The Academy will be organized to provide an extended day, a high degree of individualized instruction and an innovative research-based academic curriculum.

## Academic Assessments

**Goal 1:** All students at the Merrick Academy – Queens Public Charter School will become proficient in reading and writing of the English Language.

*Measure 1:*

A. For the 2005 – 2006 school year, cohorts of the charter school's students will reduce by one-half the gap between their baseline performance and grade level on the reading battery of the Iowa Test of Basic Skills (ITBS).

Specifically, each cohort in grades 3 – 7 will reduce by one-half the gap between the cohort's mean NCE score from the prior year and a NCE of 50. If a cohort's baseline exceeds a mean NCE score of 50, the cohort will show an increase in mean NCE score.

B. For the 2006 – 2007 through 2009 – 2010 school years, cohorts of the charter school's students will reduce by one-half the gap between their baseline performance and scoring at the proficient performance level on the state ELA examination in their graduation year.

Specifically, on the New York State English Language Arts examination, each cohort in grades 4 – 8 will reduce by one-half the gap between the cohort's mean scaled score from the prior year and the scaled score equivalent of the proficient performance level. If a cohort's baseline exceeds the scaled score equivalent of the proficient performance level, the cohort will show an increase in mean scaled score.

*Measure 2:*

Each school year, 55% of third graders and 65% of fourth graders who have been continuously enrolled in the charter school for two or more years, and 75% of fifth, sixth, seventh and eighth graders, who have been continuously enrolled at the charter school for three or more years, will perform at or above Level 3 on the New York State English Language Arts (ELA) Assessment. (Note that the school will not have an eighth grade in 2005 – 2006.)

*Measure 3:*

Each school year, the percent of all of the charter school's students scoring at Levels 3 & 4 on the state ELA test will exceed that of the charter school's "Comparison Schools<sup>1</sup>." The percent of all of the charter school's students at Levels 3 & 4 on the state's ELA test will also exceed that of the District<sup>2</sup> as a whole.

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<sup>1</sup> Merrick Academy's "Comparison Schools" are P.S./I.S. 208, P.S. 116, P.S. 268, P.S. 270, and P.S. 263.

<sup>2</sup> "District" is defined as New York City School District.

**Goal 2:** All students at Merrick Academy – Queens Public Charter School will demonstrate competency in the understanding and application of mathematics computation and problem solving.

*Measure 1:*

A. For the 2005 – 2006 school year, cohorts of the charter school's students will reduce by one-half the gap between their baseline performance and grade level on the math battery of the Iowa Test of Basic Skills (ITBS).

Specifically, each cohort in grades 3 – 7 will reduce by one-half the gap between the cohort's mean NCE score from the prior year and a NCE of 50. If a cohort's baseline exceeds an mean NCE score of 50, the cohort will show an increase in mean NCE score.

B. For the 2006 – 2007 through 2009 – 2010 school years, cohorts of the charter school's students will reduce by one-half the gap between their baseline performance and scoring at the proficient performance level on the state mathematics assessment in their graduation year.

Specifically, on the New York State Mathematics Assessment, each cohort in grades 4 – 8 will reduce by one-half the gap between the cohort's mean scaled score from the prior year and the scaled score equivalent of the proficient performance level. If a cohort's baseline exceeds the scaled score equivalent of the proficient performance level, the cohort will show an increase in mean scaled score.

*Measure 2:*

Each school year, 55% of third graders and 65% of fourth graders who have been continuously enrolled in the charter school for two or more years, and 75% of fifth, sixth, seventh and eighth graders, who have been continuously enrolled at the charter school for three or more years, will perform at or above Level 3 on the New York State Mathematics Assessment. (Note that the school will not have an eighth grade in 2005 – 2006.)

*Measure 3:*

Each school year, the percent of all of the charter school's students scoring at Levels 3 & 4 on the state Mathematics test will exceed that of the charter school's "Comparison Schools<sup>1</sup>." The percent of all of the charter school's students at Levels 3 & 4 on the state's Mathematics test will also exceed that of the District<sup>2</sup> as a whole.

**Goal 3:** All students at Merrick Academy – Queens Public Charter School will demonstrate competency in the understanding and application of scientific reasoning.

*Measure 1:*

Each school year, 65% of fourth graders and 75% of eighth graders who have been enrolled at the charter school for two or more years will perform at or above the state designated level on the New York State Science Assessment. (Note that the school will not have an eighth grade in 2005 – 2006.)

*Measure 2:*

Each school year, the percentage of all of the charter school's students at or above the state designated level on the New York State Science Assessment for grades four and eight will exceed the percentage of students at or above the state designated level on the New York State Science Assessment at the charter school's "Comparison Schools<sup>1</sup>." The percent of all of the charter school's students at or above the state designated level on the state's Science Assessment will also exceed that of the District<sup>2</sup> as a whole.

**Goal 4:** All students at Merrick Academy – Queens Public Charter School will demonstrate competency in the understanding and application of social, geographical, civic and world studies.

*Measure 1:*

A. For the 2005 – 2006 school year, 75% of fifth and eighth graders who have been enrolled at the charter school for two or more years will perform at or above Level 3 on the New York State Social Studies Assessment.

B. For the 2006 – 2007 through 2009 – 2010 school years, 75% of students in grades five and eight who have been enrolled at the charter school for two or more years will perform at or above Level 3 on the New York State Social Studies Assessment.

*Measure 2:*

For the 2006 – 2007 through 2009 – 2010 school years, the percentage of all of the charter school's students at Levels 3 & 4 on the New York State Social Studies Assessment for grades five and eight will exceed the percentage of students at Levels 3 & 4 on the New York State Social Studies Assessment at the charter school's "Comparison Schools<sup>1</sup>." The percent of all of the charter school's students at Levels 3 & 4 on the state's Social Studies Assessment will also exceed that of the District<sup>2</sup> as a whole.

**EXHIBIT D**

**ADDITIONAL ASSURANCES  
AND TERMS**

## **Merrick Academy – Queens Public Charter School**

### **A. Restrictions Placed on Charter Renewal by Trustees.**

The Terms of Operation, Key Design Elements, Projected Enrollment Structure and Projected Total Enrollment are modified as follows:

1. The School is limited to providing instruction in grades:
  - a. Kindergarten through six (6) during any portion of the 2004-2005 school year; and
  - b. Kindergarten through five (5) in every year thereafter for the remaining term of the Charter.
2. The Projected Total Enrollment in Paragraph 2.2 shall not exceed:
  - a. four hundred and fifty (450) students during any portion of the 2004-05 school year; and
  - b. five hundred and seventy (570) students every year thereafter for the remaining term of the Charter.

### **B. Accountability Plan.**

The Accountability Plan set forth and attached as Exhibit C shall be modified to comply with the Accountability Plan Guidelines and provided to the Institute for approval. The School must have the modified Accountability Plan approved by July 1, 2005, such approval not to be unreasonably withheld. The modification of the Accountability Plan shall not be considered a material revision to the Charter.