

May 31, 2022

Jessie F. Beeber
T 212.808.5677
F 212.218.2200
JBeeber@Venable.com

By Federal Express and Email

██████████
Chief of Staff
Office of Education Policy
New York State Education Department
89 Washington Ave., Rm. 2M
Albany, NY 12234

Re: Brooklyn Laboratory Charter Schools: Inaccurate and Arbitrary Renewal Site Visit Report

Dear ██████████:

As you know, we represent Brooklyn Laboratory Charter Schools (the “School”).

As set forth in summary fashion below and as supported by the exhibits that accompany this letter, we have significant concerns about CSO’s evaluative process and the substance of the Report. These include the effect CSO’s recommendations will have on the School, its Board, and the School’s esteemed and diverse faculty and staff, the long delays in CSO’s evaluative process, and the inclusion of stale and previously-resolved issues in the Report. Because CSO has ignored the School’s prior submissions, the Report still contains serious inaccuracies and errors that have, among other things, resulted in an unfair rating for the School on Benchmark 10, Legal Compliance. CSO’s assessment that the School “Falls Far Below” meeting Benchmark 10 is unwarranted, and since it will likely result in an abbreviated subsequent renewal term, it will have a lasting and detrimental effect on the School. We therefore urge you to reconsider that assessment and replace “Falls Far Below” with the more accurate rating of “Meets,” or at the very least “Approaches.”

I. Summary of Supporting Materials

Please note that we have included the following supporting materials with this letter:

Exhibit 1: A letter to you from **David G. Samuels**, outside counsel for the School, regarding CSO’s dangerous position that the School’s Board should have removed four Trustees from the Board for allegedly not submitting complete financial disclosure forms (the “Samuels Letter”).

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Mr. Samuels is a former Deputy Chief of the New York Attorney General’s Charities Bureau. He is a recognized expert on charitable organizations, including compensation, governance, fiduciary duty, self-dealing and conflict of interest, prudent investments, and endowments and restricted funds. Mr. Samuels has extensive experience representing numerous public charities and private foundations, including social service agencies, grant-making foundations, mental health facilities, educational organizations, and religious institutions. He is an experienced civil and appellate litigator and employment lawyer.

Exhibit 2: A letter to you from **Tricia Forrest**, the Managing Partner and a Principal at Urban Projects Collaborative LLC (“UPC”), regarding CSO’s incorrect assumptions regarding the School’s Temporary Certificates of Occupancy (the “Forrest Letter”). UPC serves as the School’s Owner Representative in its multimillion dollar construction projects.

Ms. Forrest holds a master’s degree in economics with a focus on global business and finance, and has more than a decade of experience in building operations, team management and client services. In addition to overseeing complex renovation projects, Ms. Forrest uses her experience, qualifications and skill set in facilities management oversight and strategy to help UPC’s educational and institutional clients draft and implement protocols for safe openings and continued operations.

Exhibit 3: A letter to you from **Anthony C. Kiiru**, a licensed architect, Founder, and Managing Partner of AKA Studio LLC (“AKA”) regarding CSO’s unfounded accusations that the School is in violation of health and safety codes (the “Kiiru Letter”). AKA was the architectural studio responsible for the design and build-out of the School’s 77 Sands Street facility, the 25 Chapel Street facility, and building system upgrades at 240 Jay Street.

Mr. Kiiru has over 25 years of General Architecture and Interior Design practice with an emphasis on Educational, Military, Commercial, Office and Multi Family Buildings and Facilities. He has provided hundreds of hours of support for School facilities oversight since 2016. As Managing Partner of AKA Studios, Mr. Kiiru has managed projects in various capacities which have included Project Manager, Project Architect, Construction Manager, Owner’s Representative and Managing Principal. AKA Studios is a full service professional firm offering code consulting, engineering, specification, design, health and safety, and architectural services. AKA has worked on dozens of public charter school projects in New York and New Jersey, and has particular expertise in the NYC Department of Buildings, the Fire Department of New York, and New York City special inspections and health and safety audits. Mr. Kiiru has advanced degrees in architecture and engineering, and is a Licensed New York City Special Inspector, a Member of the American Institute of Architects (AIA), and a Member of the National Council of Architectural Registration Boards (NCARB).

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Exhibit 4: Documentation regarding the safety qualifications of 77 Sands Campus Fire, Life & Building Safety Director **Ibrahim Sabri** (the “Sabri Certifications”). Mr. Sabri’s valid Certificates of Fitness issued by the Fire Department of New York include: Fire Safety Director with Active Shooter and Medical Emergency Preparation (F85); Fire and Life Safety Director (Z89); Place of Assembly Safety Personnel (F04 & F03); Supervision of Fire Alarm System and Other Related Systems (S96); Citywide Fire Guard for Impairment (F01); City Wide Sprinkler Systems (S12); and City Wide Standpipe Systems (S13). Mr. Sabri has also successfully completed a 30-hour Occupational Safety and Health Administration (U.S. Department of Labor) training course in Constructional Safety and Health. Documentation for additional School employees with Supervision of Fire Alarm Systems and Other Related Systems (S95) and Fire and Emergency Drill Conductor (W07) certifications is also included.

Exhibit 5: A letter to you from **School Operations Team** members, including: Sterling Florant, Director of School Operations; Pierre Richard Charles, Operations Associate; and Eric Tucker, Executive Director (the “School Operations Team Letter”). This letter, among other things, establishes that the School has a strong track record of fire safety, and should be rated “Meets” in this domain; that the School’s building safety track record is excellent and should be spotlighted as an “Exceeds” rating and a strength; and that the building health and safety protocols in response to COVID-19 during the charter term were excellent and should be rated “Exceeds” by CSO in this Report.

Exhibit 6: A memorandum from the School dated April 18, 2022 that the School previously provided to you containing its initial response to the draft Report (the “**April 18 Memorandum**”).

Exhibit 7: A memorandum from the School dated April 29, 2022 that the School also provided to you containing its further response to the draft Report (the “**April 29 Memorandum**”).

Exhibit 8: A letter to you from **BB Ntsakey**, the Senior Director of Academics of the School regarding, among other things, strengths of the School’s academic program that CSO should have considered in assessing Benchmark 10, Indicators (a)-(c) (the “Ntsakey Letter”). Mr. Ntsakey points out the importance of observing the School’s strong in-person teaching and learning environment through in-person site visits, rather than remote observation; the importance of evaluating and incorporating the Benchmark 1 Narrative submission into CSO’s Report and the renewal decision; the strength of the School’s Teacher Certification approach and systems; the strength of the School’s approach for serving Students with Disabilities; and the strength of the School’s Corrective Action Plan processes focused on Teaching and Learning.

Exhibit 9: The **Benchmark 1 Narrative** that the School submitted to CSO, and that Mr. Ntsakey believes CSO essentially ignored. *See* Ntsakey Letter (Ex. 8) at 2-3.

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Exhibit 10: A letter to you from **Jonathan Flynn**, the Director of Family and Community Engagement and Director of Public Affairs of the School regarding, among other things, the School's faithful and diligent commitment to meeting enrollment metrics, implementing corrective actions, and responding to community needs and feedback (the "Flynn Letter").

Exhibit 11: An email dated May 17, 2022 from **Cecile Kidd**, the School's Bursar, to CSO. As set forth in more detail in the Flynn's Letter, Mrs. Kidd expressed her concerns to CSO that it was not considering the extensive evidence of community responsiveness and community-based authorizing that the School had submitted.

Exhibit 12: A letter to you from **Sheryl Gomez**, the Chief Financial Officer of the School regarding, among other things, the School's stewardship of public funds, adherence to procurement guidelines, and dispute with Genuine Foods (the "Gomez Letter").

Exhibit 13: A letter to you from **Eric Tucker**, the Executive Director and Co-Founder of the School regarding, among other things, the irreparable harm that the CSO Report will cause the School (the "Tucker Letter").

II. Summary of the School's Process Concerns Regarding the Report

As set forth below and in the accompanying support material, the School has grave concerns regarding CSO's evaluative process.

A. CSO Has Not Provided Timely Feedback to the School

The School believes that CSO has consistently failed to follow its own procedures in assessing the School, including in connection with the Report. The untimeliness of CSO's evaluations and feedback has placed the School in an untenable position, and led to an unfortunate disconnect between CSO's observations and conclusions as contained in the Report, and the true and current operations of the School.

The School recognizes and appreciates the importance of CSO's evaluative process. CSO plays a vital role in the New York State charter school system, by reviewing school processes and providing invaluable feedback. The Monitoring Plan for New York State charter schools authorized by the Board of Regents exists to provide "internal and external stakeholders with a snapshot of monitoring activities performed by the NYSED CSO over the course of a school's charter term" and is an integral part of the "comprehensive oversight of charter schools authorized by the Board of Regents."

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Site visits, check-in reports and periodic renewal reports enable CSO to collect and document its “evaluative findings related to school performance.” Monitoring Plan objectives include:

- 1. Setting clear expectations between authorizers and schools regarding performance;*
- 2. Ensuring school and authorizer accountability;*
- 3. Promoting high-quality charter schools and authorizer excellence; and*
- 4. Evaluating school and authorizer performance*

These evaluative functions, along with CSO’s Performance Framework, help to fulfill a charter school’s critical need for objective and consistent feedback, and exist to guide the school’s action planning towards academic, operational, and financial success. While schools can and do supplement monitoring visits with external consultants to complete schoolwide programmatic audits, there is no substitute for the perspective and institutional knowledge of CSO when applied through its systems as designed.

Of course, it is also of critical importance that CSO’s evaluations be timely and fair. CSO’s opinion is a permanent and public documentation of “the school’s record of performance” and is relied on heavily by the Board of Regents in making renewal decisions. In fact, CSO itself describes that the goal of its monitoring process is “to enable the review of Board of Regents-authorized charter school performance as required by statute.” Thus, if CSO’s feedback is untimely, unsupported by evidence, or based on incorrect assumptions, it can have a devastating impact on a charter school.

Again, the School wholeheartedly supports the ideals encapsulated in CSO’s Performance Framework and appreciates its feedback. The School, however, has concerns about how CSO’s monitoring and evaluative process has been applied over the course of this charter term.

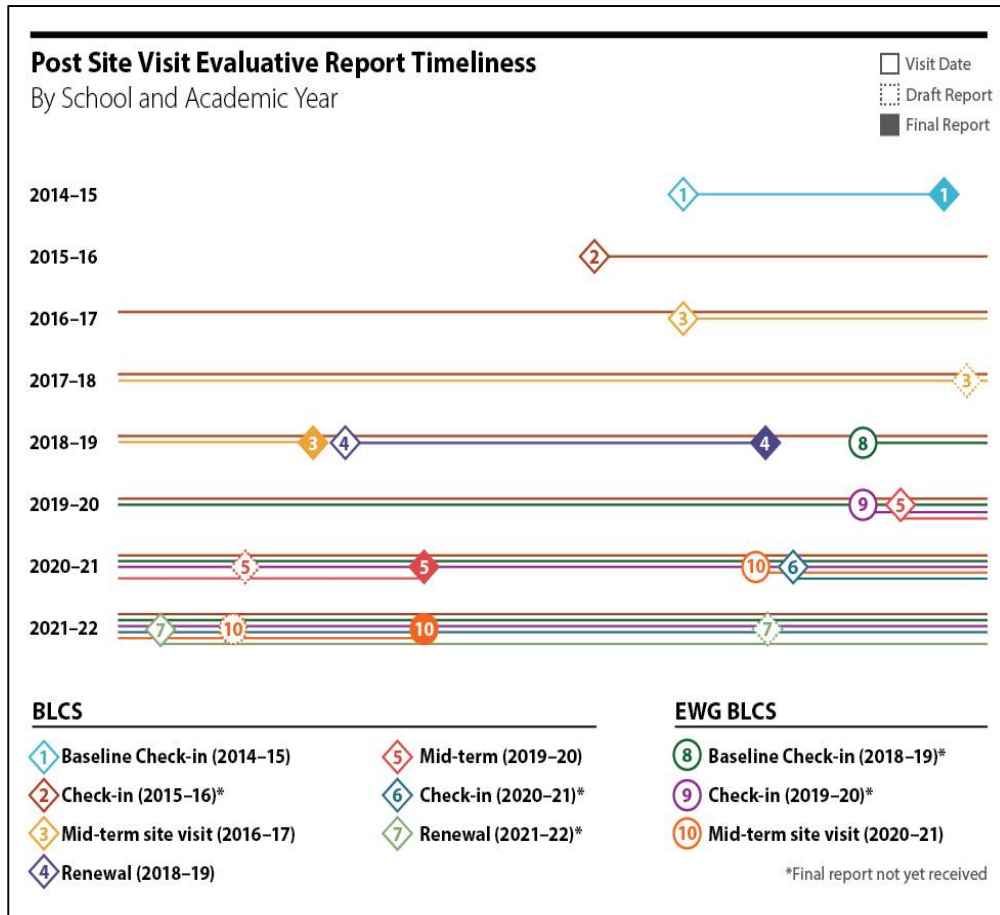
Given the importance of the NYSED CSO process, the School believes that the lack of timely feedback, as detailed below, has resulted in unproductive and misleading communication patterns with CSO, has prevented the School from hearing about and expeditiously resolving issues CSO has raised, and consequently has impeded the School’s progress in key benchmark areas. The School has enthusiastically devoted considerable resources to prepare for and participate in site visits, both virtual and on-site, only to find that it is missing critical opportunities to consider CSO’s findings and feedback within a reasonable timeframe, particularly at key points of the School’s existence such as in years one and two of operation, and when approaching high stakes decisions such as renewal.

The sector norm for delivery of feedback and reports ranges from weeks to several months. As illustrated in **Figure 1** below, the time elapsed between CSO’s site visits and the issuance of

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its reports has in some instances been several years. And to this day, the School has still not received final reports from CSO’s 2015-2016 Check-in, its 2018-2019 Baseline Check-in, or its 2019-2020 Check-ins for BLCS and EWG BLCS. In some instances, CSO purported to hold the School accountable for failing to implement recommendations that CSO had yet to deliver. *See* Tucker Letter at 2. This has made it difficult, if not impossible, for the School to incorporate CSO’s feedback into its ongoing operations, or to make effective changes to systems that CSO may have identified. The School thus urges CSO to reconsider those conclusions that may be out of date or at odds with the School’s current operations.

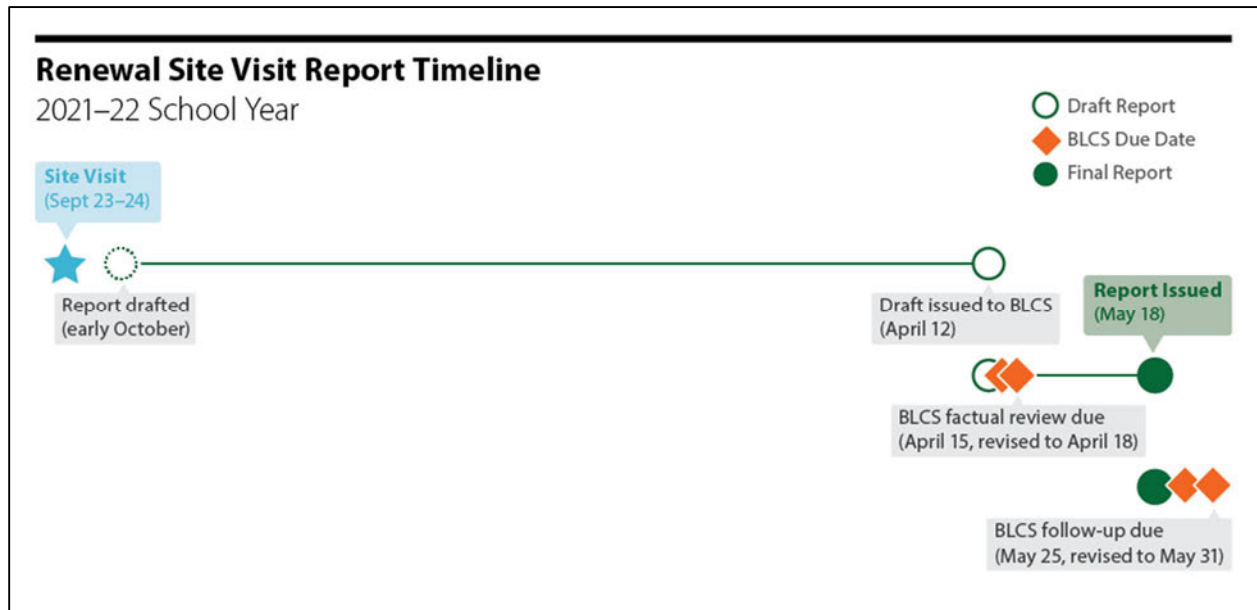
Figure 1:



By contrast, CSO provides the School with only days to respond to CSO’s evaluations, as illustrated in **Figure 2** below.

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Figure 2:



B. CSO Is Raising Outdated Issues and Relying on Stale Observations

As discussed further below, we believe that the Report raises observations and issues that occurred well before the current charter term (July 1, 2019 to June 20, 2022, the “Charter Term”). This causes the School concern. Not only are such matters outdated and stale, they also have been the subject of prior reports, have formed the basis for the School’s receiving only a short-term renewal during the last renewal cycle, and in many instances have been remediated or improved long ago. Stale concerns that do not apply to the charter term under review have no relevance to CSO’s evaluation or the upcoming renewal determination. To continue to hold the school accountable for alleged wrongdoings that already formed the basis of its prior short-term renewal is unfair and punishes the School once again for situations it has worked hard to improve and remedy.

It is self-evident that CSO’s feedback must only relate to matters that occurred during the current charter term. Any other construct is inherently arbitrary, and unfair to school staff and the school communities they serve. When, for example, an event occurred years before the charter term in question, the School likely will no longer have access to the necessary information to correct or disprove an inaccurate statement. Relying on long-dormant matters more likely results in errors and capriciousness than accuracy and justice. School community members – including staff, families, and scholars – also have a right to expect that if CSO has a valid issue regarding a

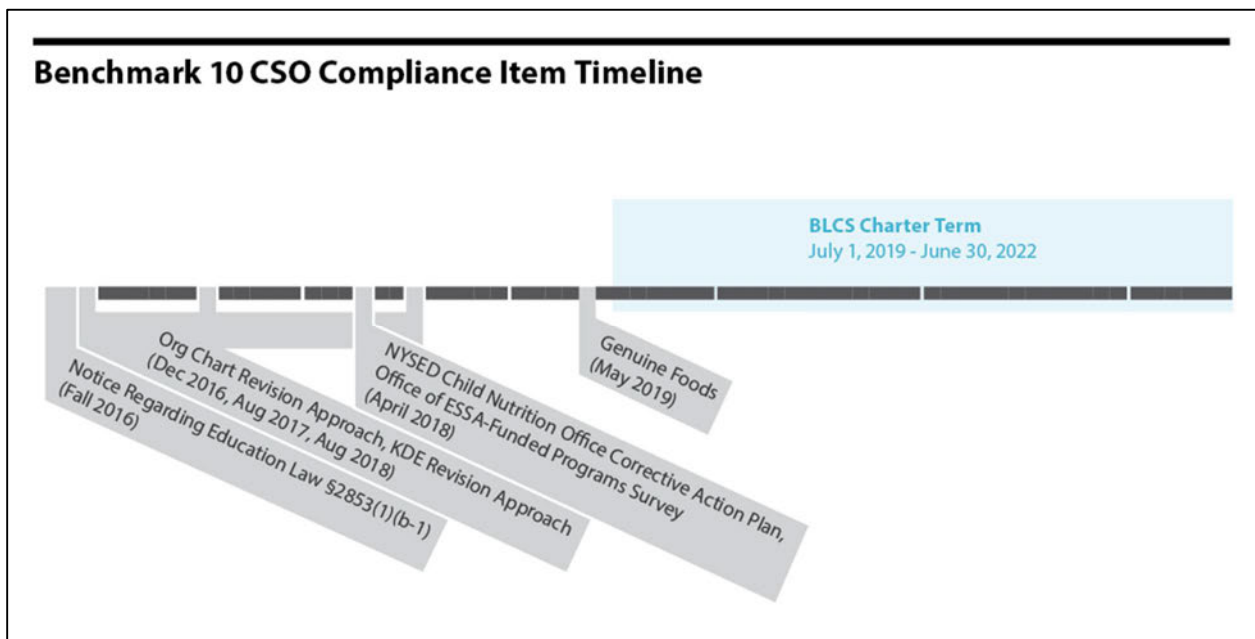
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compliance matter, particularly a matter that purportedly impacts health or safety, it will pursue that issue with reasonable diligence. The School also believes that the current charter term appropriately sets the boundaries for the issues CSO should raise in the Report, and this reasonable limitation helps to protect the School from stale accusations and concerns from its community regarding disparate treatment.

Finally, as you no doubt know, CSO’s rehashing of events that occurred outside the current charter term runs contrary to authorizer best practices in general, and Section 2851 of the New York Charter Schools Act specifically, which calls for charter schools to be established and renewed for periods of up to 5 years. Section 2851 treats each renewal term as a distinct period of operation for a school, and requires a new renewal charter to be issued in conjunction with each term. There is no provision that allows authorizers to look back to the original charter term or any prior renewal terms for evaluation data when a school is under consideration for renewal. Looking to stale academic, operational or financial data that predates the current charter term is thus inappropriate and prejudicial. Simply put, when a school is renewed a new term is commenced and the school should be evaluated based on its performance in that period.

Figure 3 below summarizes some of the numerous issues CSO has raised that occurred well outside the current Charter Term.

Figure 3:



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In sum, the lack of (or extremely delayed) evaluative feedback has prevented the School's productive use of those findings in school improvement efforts. By withholding that feedback until it is literally too late, CSO has forced the School to engage in a high stakes guessing game with adverse consequences for the most vulnerable members of its school community.

C. CSO Has Failed to Consider the School's Prior Corrections to CSO's Factually Inaccurate Findings

As you know, on April 12, 2022, the School received a draft Report from CSO, and CSO requested feedback on the factual accuracy of the draft. In the April 18 Memorandum (attached hereto as Exhibit 5), the School initially informed CSO of some of the factual errors and inaccuracies in its findings, and provided evidence-based explanations to counteract CSO's erroneous descriptions and assumptions regarding the School's operations (caused in part by CSO's dilatory feedback and uneven evaluation practices). The School then supplemented that Memorandum with the April 29 Memorandum (attached hereto as Exhibit 6).

That CSO ignored the School's April 18 and April 29 Memoranda is obvious. The final Report contains the identical errors, inaccuracies and unsupported assumptions that were present in CSO's draft Report and were dealt with in detail in the April 18 and April 29 Memoranda. The School is disappointed that the time and effort it expended to aid CSO in executing a fair evaluation process was apparently wasted, and that CSO is insistent on adhering to demonstrably false facts, premises and conclusions.

This is also not the first time that CSO has ignored the information, documentation and explanations the School has provided. CSO's pattern of refusing to consider evidence and prioritizing accuracy over opinion causes the School ongoing concern.

D. Certain of the School's Senior Staff Has Complained of Disparate Treatment by CSO's Representatives

As you are aware, following CSO's release of the draft Report, the School received a formal complaint from senior staff members of color, who alleged that oral and written statements by CSO personnel made about them and their work product were arbitrary and demonstrably false, and that CSO does not make similar statements about predominantly white and non-immigrant staff at other charter schools overseen by CSO. *See* Tucker Letter at 4. Some of the staff members also remarked that CSO personnel seemed uncomfortable interacting with them in person, and expressed that CSO's actions were negatively impacting their conditions of employment. *Id.*

This past April, the School and its leadership were excited when a CSO representative finally made an appointment with them for an in-person check in visit, scheduled for early June.

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Recently though, that CSO representative canceled the in-person meeting, citing “the continued impacts of the pandemic.” *Id.* But the School then learned that this same CSO representative, and others at CSO, were still meeting with other schools in person. This suggests that the change of site visit format is a response to the School’s request for a conversation regarding staff concerns. These events unfortunately lent credence to senior staff members’ concerns that they were being treated differently than staff at other schools, and that CSO was uncomfortable meeting with them specifically in person. CSO has thus not only avoided its obligations, its actions have further complicated the tense situation between staff members of color and CSO, and potentially further exposed the School to liability.

III. Summary of the School’s Basis for Its Position that CSO’s Assessment of Benchmark 10 Is Inaccurate and Arbitrary

As you know, Benchmark 10, Legal Compliance, assesses whether a charter school “complies with applicable laws, regulations and the provisions of its charter.” While CSO has given the School a “Meets” or “Approaches” rating on all of the other Benchmarks it considered, CSO has assigned a “Falls Far Below” rating to the School on Benchmark 10.

CSO’s “Falls Far Below” rating on Benchmark 10 is inaccurate and arbitrary.

According to the Report, CSO based that rating on the School’s “non-compliance regarding reporting and the timely submission of documents and data required by the state and federal government; violations of Open Meeting Law; failure to submit charter revision requests and implementing charter revisions without NYSED approval; and violating state education law by educating students in the same grade at separate school buildings.”

CSO purports to have made these conclusions based on its assessment of the six Indicators listed below. That assessment, however, improperly considered events falling outside of this Charter Term and is rife with inaccuracies and unfair observations as outlined below.

- A. Indicator (a): substantial compliance with applicable State and federal laws and regulations and the provisions of its charter including, but not limited to: those related to student admissions and enrollment; FOIL and Open Meetings Law; protecting the rights of students and employees; addressing complaints; financial management and oversight; governance and reporting; and health, safety, civil rights, and student assessment requirements.**

CSO states that the School has an “inconsistent record of compliance with State and federal laws and its own Charter.”











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CSO's first piece of alleged support for this conclusion is that "CSO records" purportedly demonstrate that over the course of the Charter Term the School "regularly submitted late the required financial oversight materials." As demonstrated by CSO's Benchmark 4 and 5 ratings for the School, however, the Finance Team at the School, under the direction of an excellent CFO, has a strong track record of timely submission of Financial Reports and other information. The School notes that the logistics of submitting documentation over the past few years has been challenging, and that even as the School returned to in-person operations, NYSED continued to face the challenges of staff working remotely, and struggled to keep up with paperwork and new processes needed to administer federal stimulus funds during the pandemic. The School's experience is also that as a result of the pandemic, materials FedEx'd to NYSED often arrive and then disappear, and must be re-sent repeatedly.

The School believes that it faced, and overcame, obstacles related to submission and revision of forms, implementation of new processes and managing of remote work during these extraordinary times. As summarized in **Figure 4** below, and set forth in more detail in the Tucker Letter, CSO's unsupported assessment that the School submitted late paperwork, during the pandemic, is overly harsh and does not take into account not only the significant challenges the School faced during this time, but NYSED's and other regulators' own challenges with receiving, reviewing and retaining documentation the School submitted.

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Figure 4:

	Finding unduly influenced by regulator COVID-19 admin/operational challenges	School performance in face of pandemic constraints
Financial Data Submissions	✓	 Strong
2018-2019 Title I Supplement Not Supplant Survey	✓	 Mixed
NYCDOE Facilities Submission	✓	 Strong
Fire Safety	✓	 Strong
Temporary Certificates of Occupancy	✓	 Strong
Building Safety	✓	 Strong
Education Law §2853(1)(b-1)	✓	 Strong
Board Financial Disclosure Submissions	✓	 Strong
Board Financial Disclosure Form Scans	✓	 Mixed
School Website Posting of Required Forms	✓	 Mixed

In sum, much of CSO’s Benchmark 10 evaluative feedback is unduly influenced by COVID-19 driven regulator office closures, staff remote work, and other administrative and operational challenges that are certainly not the fault of the School.

Second, CSO points to a complaint by a former vendor, in May 2019, regarding the School’s decision to dispute invoices that were inconsistent with the School’s contract and the school food program. But a complaint from a vendor that would prefer to lobby an authorizer, rather than fulfill the terms of its contract with a school, has nothing to do with the School’s submission of documents and data required by the state or federal government. It also allegedly

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occurred in *May 2019*, which is outside of the Charter Term. And, as the School previously explained, it disputed that vendor's inappropriate charges, followed up with that vendor under guidance from counsel and NYSED, and ultimately settled the dispute and contracted with a new vendor. *See* April 18 Memorandum at 13; *see also* Gomez Letter at 1. The Board and the School should be commended, not criticized, for recognizing when a vendor was not living up to its contractual and professional obligations, and for ensuring that public funds were disbursed appropriately. The Board and the School demonstrated good stewardship of public funds, appropriate Board oversight, strong internal controls and faithfulness to the law and the School's charter, not violations of them. Gomez Letter at 1-2. We are sure that CSO does not want to publicly punish the School for legitimately insisting that payment to a vendor occur in an appropriate manner, as that may have the unintended consequence of dissuading other schools from rigorously enforcing their own oversight processes.

CSO's third piece of support, that in *April 2019* ESSA had to contact the School five times to have it submit a required survey, also occurred outside of the Charter Term. Moreover, CSO has totally ignored that because of NYSED's bulk email error, the School *never received* those communications. *See* April 18 Memorandum at 15-16.

CSO then alleges that in December 2019, the School "submitted incorrect information to the NYCDOE regarding facilities enrollment and where students were being educated." As CSO knows, the School absolutely does not agree that it submitted incorrect information to the NYCDOE at any time. *See* April 18 Memorandum at 16-19.

CSO also claims that the School "never submitted a material request to the CSO for approval to educate students in the same grade at more than one site, and this would not have been granted as this is a violation of Education Law §2853(1)(b-1)." CSO states that the School was "formally notified of this violation *in 2017*," and that the School "reports that it *currently* operates in compliance with the education law." (emphasis added). The 2017 notice focused on a concern about future plans, rather than a current violation. Why does CSO's 2022 Report note a 2016-2017 discussion that never culminated in the School pursuing a particular operational path with regard to facilities, nor in the submission of a request to pursue such a path?

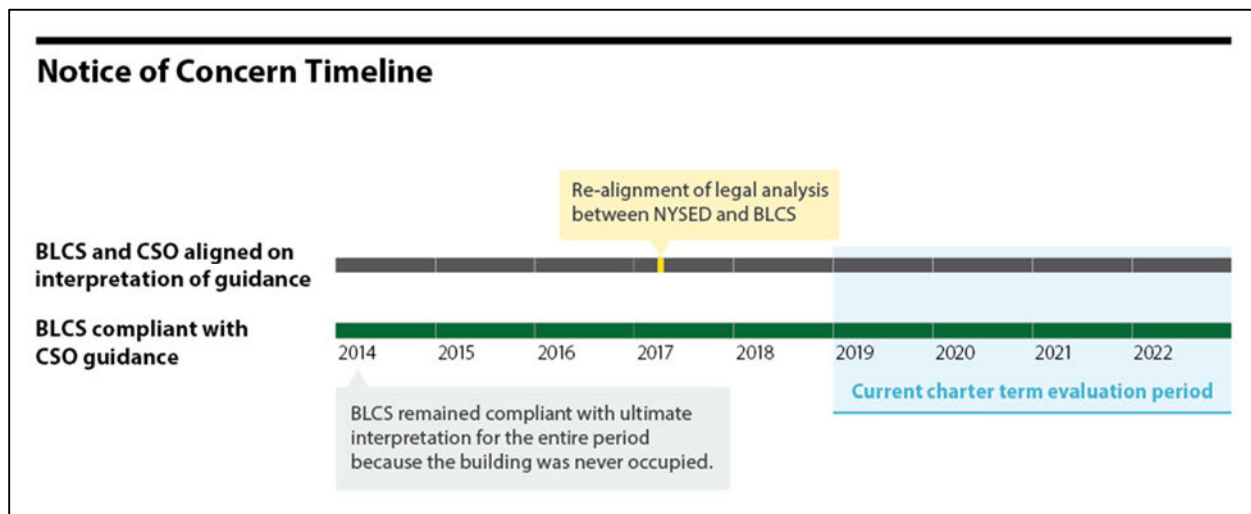
These statements must be removed from the Report. Again, a purported concern from 2017 is well outside the Charter Term and has no place in CSO's evaluation. The School did not seek CSO approval for such a change, because it had no reason to. Thus the statement that the School only "currently" operates in compliance with the education law is false. The School has always been in compliance with Education Law Section 2853(1)(b-1).

And as the School and the Board have also explained, the 2017 notice was completely unfounded. In 2015, CSO approved the School's plan to lease space at 25 Chapel Street, a location

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across the street from the School’s facilities at 240 Jay Street. After consultation with several law firms, the School’s legal analysis was that since the Jay Street and Chapel Street buildings were adjacent to each other, they should qualify as a single site (as do numerous other charter schools in New York). As shown in **Figure 5** below, in 2017, the School learned that CSO had a different legal interpretation. While the School disagreed with and was confused by the revised position CSO took, the School has nonetheless devoted millions of dollars and thousands of hours to ensure constant, uninterrupted and full operational compliance with CSO’s evolving interpretation of the law. At most, the School and CSO had different interpretations of how to best configure space for gym and performing arts spaces in the future, and the School should not be punished for engaging in that process.

Figure 5:



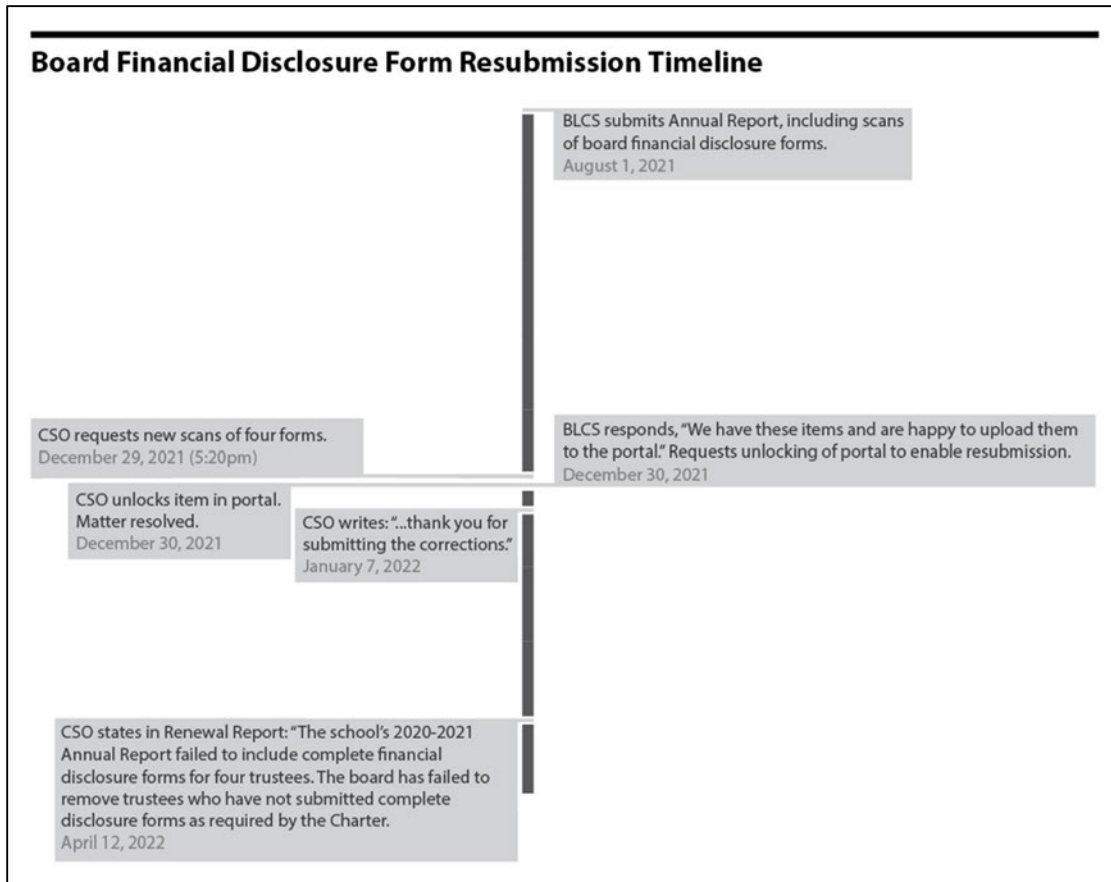
CSO cites a summons and cure letter the School received from the FDNY in August 2020 as evidence of the School’s noncompliance with the law. But, as set forth in the Kiiru Letter (Ex. 3), that August 2020 FDNY violation had nothing to do with an unsafe condition at 77 Sands. Kiiru Letter at 1. Rather, the August 2020 inspection was conducted during the height of COVID 19 pandemic shutdowns, on a day when there were no students and only a skeleton staff on campus. *Id.* The summons was issued for failure to produce a certificate of fitness for a certified drill inspector. *Id.* The School held a valid certificate of fitness at the time of inspection, but the certified staff member, who had physical custody of the certificate, happened to be off campus at the time. *Id.* at 2; *see also* Sabri Certifications (Ex. 4). The certificate was duly submitted to the FDNY shortly thereafter, and the violation was cured without penalty. Kiiru Letter at 2.

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Moreover, as set forth in the School Operations Team Letter, the School has a strong track record of fire safety, and should be rated “Meets” in this domain, the School’s building safety track record is excellent and should be spotlighted as an “Exceeds” rating and a strength, and the building health and safety protocols in response to COVID-19 during the Charter Term were excellent and should be rated “Exceeds” by CSO in its Report. *See* School Operations Team Letter at 5-6.

CSO also complains that the School’s 2020-2021 Annual Report did not include complete disclosure forms from four Trustees, and chastises the Board for not removing those Trustees from the Board. It is not true that those Trustees failed to submit their disclosure forms, as CSO knows full well. *See* April 18 Memorandum at 23. In fact, as shown in **Figure 6** below, the School submitted those disclosure forms with its Annual Report. Nearly five months later, when CSO requested new scans of those four forms, the School complied within hours.

Figure 6:



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In addition, with respect to the removal of those four Trustees, according to Mr. Samuels:

There is clearly no basis for demanding or even requesting the removal of any of these four trustees under these circumstances. They have not acted improperly or in violation of any legal or fiduciary obligations, and they should not be held responsible for logistical and transmission difficulties of Brooklyn Lab which were unintended and accidental during a pandemic (which were not in any event the fault of any of these four trustees.) The arbitrary and unwarranted demand for their removal has no legal and factual basis under these circumstances.

Moreover, the removal of any of these four trustees would be contrary to the interests of Brooklyn Lab and its charitable mission, which includes (as set forth on the School's website) preparing its "scholars with the academic foundation, digital literacy, and leadership skills they need to succeed in college and professional life as they grow as ethical leaders." Brooklyn Lab's outstanding board of trustees mirrors the diversity of its scholars.

Samuels Letter (Ex. 1) at 2. Thus, not only is CSO's directive to remove those Trustees completely unnecessary, it would have a devastating impact on the School. *Id.*

CSO says that the School failed to include certain information on its website, specifically a District-Wide School Safety Plan, FOIL Policy and FOIL Subject Matter List on its website. But CSO completely ignores that the School overhauled its website in response to posted CSO guidance, and that while those links were briefly unavailable during the switchover, the School has provided them. *See* April 18 Memorandum at 23-24.

Finally, CSO says that the School "altered its KDE and organization chart without submitting a revision to the CSO." This is not true. The School notes that it submitted material and non-material revisions repeatedly between 2016 and 2020 in coordination with counsel, the Board, the School's CSO Liaison and consistent with the previously published guidance. These revision requests were submitted in good faith and included KDE and Org Chart adjustments. The School appreciates that on October 18, 2021, CSO published an updated Charter Revision Request/Guidance for Board of Regents-Authorized Schools. When the new Liaison clarified that the School needed to utilize the October 18, 2021 guidance and the newly-launched portal, the School immediately committed to doing so, and to meeting CSO's new expectations. The School has engaged in this new process in good faith. It has devoted hundreds of hours of legal time and thousands of hours of staff time, first to submitting revision applications during the pre-Charter Term period, and then to revising those submissions consistent with the new CSO guidance and subsequent approval by BoR or CSO. Insisting in 2022 that 2016 or 2018 activity be conducted consistent with October 2021 guidelines seems difficult to anticipate, at the least.

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Moreover, as the School previously explained, this is a perfect example of CSO’s dilatory behavior causing harm to the School. The School submitted revisions, and then was notified years later that the format of those revisions needed to be adjusted. See April 18 Memorandum at 24. In addition, a slight adjustment to a school’s KDE regarding pedagogy hardly warrants a “Falls Far Below” assessment of a school’s legal compliance obligations.

A more balanced assessment of the School’s strengths and the Benchmark 10 Indicator (a) weakness CSO identified during this Charter Term demonstrates a strong record of compliance with applicable State and federal laws and regulations, and the School’s charter. As summarized in Figure 7 below, CSO’s assessment should be that the School has met CSO’s expectations on Indicator (a).

Figure 7:

Benchmark 10 Indicator A Compliance			
Applicable State and Federal Laws and Regulations and Charter Provisions			
	Within Charter Term	Charter Term Deficiency	Charter Term Strength
Financial Data Submissions	✓	None Listed	8
Genuine Foods	✗	N/A	10
NYSED Child Nutrition Office	✗	N/A	8
2018-2019 Title I Supplement Not Supplant Survey	✗	2	N/A
NYCDOE Facilities Submission	✓	4	8
Fire Safety	✓	1	9
Temporary Certificates of Occupancy	✓	N/A	8
Water Damage Building Safety	✓	N/A	10
Building Safety	✓	N/A	9
Education Law §2853(1)(b-1)	✗	N/A	8
Board Financial Disclosure Forms	✓	1	8
School Website Posting of Required Forms	✓	3	4
School altered Org Chart and KDE (2021-2022)	✗ ✓	6	5
	(2016-present)		

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Indicator (b): The school has undertaken appropriate corrective action when required, and/or as requested by the Board of Regents and/or the NYSED Charter School Office and has implemented necessary safeguards to maintain compliance with all legal requirements.

CSO states that the School has only “sometimes” undertaken appropriate corrective action when required, and has “inconsistently” implemented safeguards to maintain compliance with legal requirements.

CSO states that the School “was under-enrolled in SY 2020-2021” and that the School “is still under a CAP for academic underperformance and enrollment deficiencies” as support for its conclusion that the School has only sometimes undertaken corrective action. These conclusions are contradicted by other aspects of the Report, and are clearly unreliable.

For example, with respect to enrollment, CSO recognizes elsewhere in its Report that the School and its Board have undertaken significant and meaningful corrective actions to improve enrollment. In analyzing Benchmark 9, Enrollment, Recruitment, and Retention, CSO concluded that the School had earned an “Approaches” on this Benchmark, and specifically recognized that although the School had suffered the water Incident, it nonetheless was “making progress” towards meeting its enrollment goals, had “implemented recruitment strategies and program services” to attract new scholars, and had “implemented a systematic process for evaluating recruitment and outreach strategies . . . and [made] strategic improvements as needed.” Report at 34. This is corroborated by Jonathan Flynn, the Director of Family and Community Engagement and Director of Public Affairs of the School. *See* Flynn Letter at 1-2 (Ex. 10).

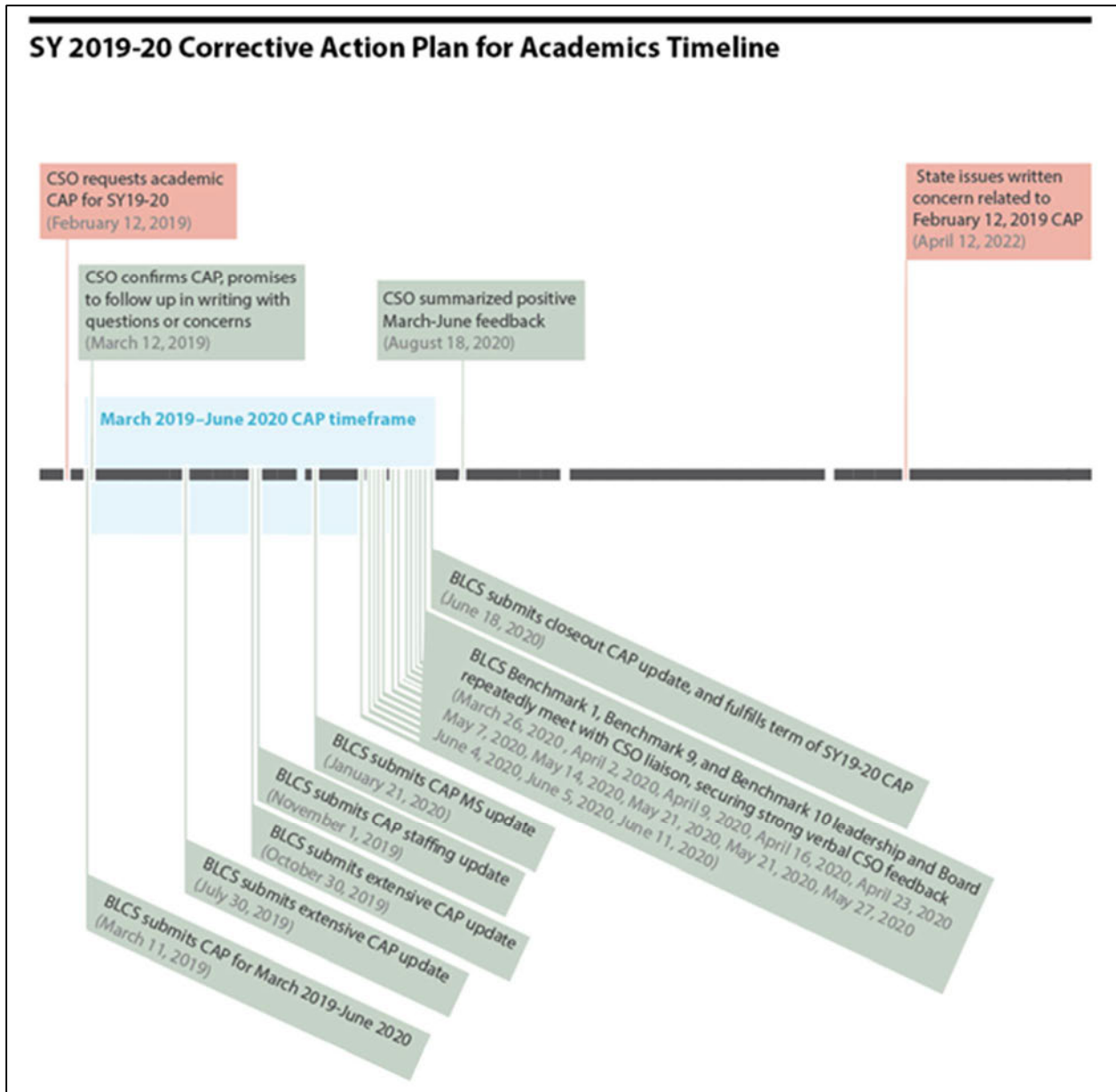
With respect to academic performance, in assessing Benchmark 1, Student Performance, CSO concluded that the School also had earned an “Approaches” rating. Report at 11. CSO noted that during this Charter Term, the School graduated its inaugural class at rates that exceeded the state’s graduation rates for all student subgroups (SWD, ELL and ED). *Id.* Regarding the CAP, the School submitted periodic CAP updates to CSO’s former liaison for the School, [REDACTED], and in response [REDACTED] provided the School with frequent and ongoing assurances that she was pleased with the School’s efforts and its students’ academic performance. [REDACTED] was of the view that requests for CAPs were not “punitive, but rather to elicit improvements,” and that she hoped the School would use them as an opportunity to grow. Tucker Letter at 7. That CSO would now use the existence of a 2019 CAP against the School in this manner certainly seems contrary to sentiment expressed by [REDACTED].

Moreover, as set forth in more detail by BB Ntsakey, the School’s Senior Director of Academics, in the Ntsakey Letter (Ex. 8) the School successfully fulfilled its academic CAP requirements. *See* Ntsakey Letter at 6-8. As shown in **Figure 8** below, and detailed in the Ntsakey Letter, the School diligently documented its progress, and CSO provided the School with positive

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feedback on Zoom check-ins over 10 times during the CAP term, *but did not raise a single written concern or follow-up item until it issued its draft Report in April of 2022*. See Ntsakey Letter at 7-8.

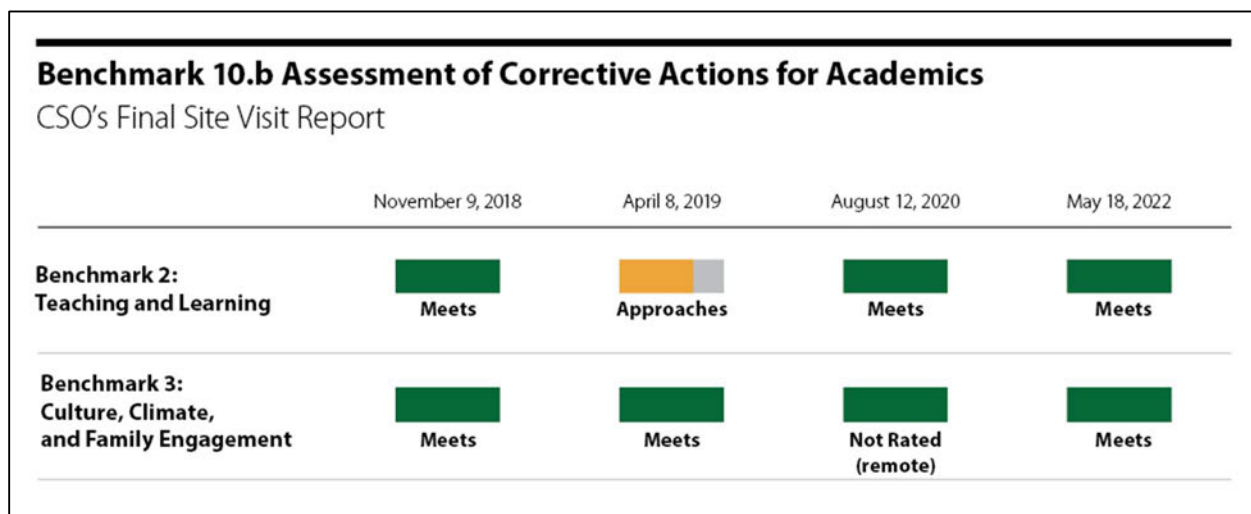
Figure 8:



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Furthermore, the CSO’s own Final Report ratings for teaching and learning were “Meets” throughout the Charter Term, as demonstrated in **Figure 9** below.

Figure 9:



CSO then states as evidence that the School has inconsistently implemented safeguards that “in SY 2020-2021 two Brooklyn Lab teachers had a start date that preceded their fingerprint clearance date.” Report at 36. The School dealt exhaustively with this false allegation in the April 18 Memorandum (*see* Ex. 5 at 26-27), but CSO has decided to ignore the School’s explanation that each employee in question had in fact timely cleared fingerprinting, but had off boarded and then re-onboarded due to the timelines involved with changing roles. Beyond a doubt, the School has robust safeguards in place to ensure that its teachers have received fingerprint clearance before engaging with the student body.

B. Indicator (c): The school has a plan to ensure that teachers are certified in accordance with applicable laws and regulations.

On this Indicator, CSO’s observations support the conclusion that the School *does* have an adequate plan in place to ensure that teachers are certified. CSO notes that the School is “working with the teacher certification team at the NYC Charter School Center to ensure that fingerprint clearance and monitoring for current teacher certification are managed effectively,” that the School is “securing relevant waivers” and “supporting uncertified staff in pursuing transitional certification,” and that the School is providing “fully-funded degrees” and covering state certification costs for teachers enrolled in its Fellowship and Teacher Residency programs.

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The School appreciates CSO's recognition of the efforts the School has made. In an environment where all schools, not just Brooklyn Lab, and not just charter schools, struggle to ensure certification of their educators, the School is proud to have supported more than 30 educators of color on the pathway to certification this year alone -- with marked success -- through partnerships with NYU and Relay Graduate School of Education. See April 18 Memorandum at 28.

In sum, CSO's assessment of this indicator does not support its conclusion that the School falls far below its compliance obligations.

C. Indicator (d): The school has sought Board of Regents and/or the NYSED Charter School Office approval for material and non-material revisions.

On this Indicator, CSO rehashes its arguments regarding the School allegedly reducing its enrollment, changing its KDE and adjusting its organizational chart without Board of Regents or CSO approval. As CSO knows, the School did not adjust its enrollment voluntarily. Rather, the School experienced a devastating loss as a result of the water Incident, and was forced to seek a downward adjustment of its Charter. CSO initially approved this adjustment. When the School brought a request for a one-time, bridge reduction for the SY 2021-22 for BLCS to CSO, the new Liaison suggested that CSO was unwilling to consider approval of this temporary adjustment.

Also, as discussed above, the School's shift from a "No Excuses" to a "High Expectations" school culture was a slight adjustment to its pedagogy that does not warrant CSO's finding of "Falls Far Below" on Benchmark 10. With respect to adjustment to the School's organizational chart, the School believes CSO may be referring to the School's conscious decision to "evolve[] the school's organizational structure away from reliance on one senior leadership figure" to a "strong and experienced executive team to distribute leadership [and] . . . to increase sustainability." Report at 9. We note that CSO cites this adjustment to the School's organizational chart not as a detriment, but as an area of growth and strength. This makes CSO's reliance on that change as a justification for its "Falls Far Below" assessment surprising.

This Report is also the first time the School has heard from CSO that the School did not provide adequate information to CSO, and it is unfair to assess the School in this manner. In fact, the feedback from the School's former CSO liaison, [REDACTED], was that the School kept CSO in the loop—her feeling was that the School did so *more* with regard to non-material and material requests than was required, not less. See Tucker Letter at 11.

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D. Indicator (e): The school maintains sufficient enrollment demand for the school to meet the expectations detailed in the enrollment plan outlined in the charter and within the parameters set forth in the charter agreement.

CSO again points to the same decline in overall enrollment that CSO analyzed, at length, in assessing Benchmark 9, Enrollment, Recruitment, and Retention. Report at 34. And again, we point out that CSO concluded that the School had earned an “Approaches” rating on that Benchmark, taking into account that the School has only missed meeting enrollment for one year, due to the devastation caused by the water Incident. In fact, the School asked for an opportunity to submit an enrollment modification, but because CSO refused to consider the devastating impact of the COVID-19 pandemic and the water Incident on the School, CSO refused. Now that CSO is in fact recognizing that the water Incident occurred, perhaps CSO can revisit its assessment on this point.

CSO also specifically recognized in the Report that the School was “making progress” towards meeting its enrollment goals, had “implemented recruitment strategies and program services” to attract new scholars, and had “implemented a systematic process for evaluating recruitment and outreach strategies . . . and [made] strategic improvements as needed.” *Id.* CSO is also apparently ignoring the broader enrollment challenges facing Brooklyn and New York City in the wake of the COVID-19 pandemic, another factor CSO should take into account.

E. Indicator (f): The school seeks guidance from its legal counsel when updating documents and handling issues that arise.

CSO has found that the School properly engages legal counsel when updating documents and handling issues that arise. CSO’s assessment of this Indicator does not support its “Falls Far Below” rating.

In sum, we believe that CSO’s evaluation process is seriously flawed. The outcome of that unfair and biased process is CSO’s conclusion that the School “Falls Far Below” on Benchmark 10, Legal Compliance. CSO’s assessment is based on events that occurred outside of the Charter Term, is unsupported by verifiable evidence, and should be reconsidered.

A balanced assessment of the Benchmark 10 indicator strengths and deficiencies CSO chose to focus on establishes a stronger rating than the Report reflects. As summarized in **Figure 10** below, weighing CSO’s alleged deficiencies against the School’s demonstrated strengths yields an assessment of “Meets” (or at the very least “Approaches”) on Benchmark 10.

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Figure 10:

Benchmark 10 Indicator Strengths and Deficiencies			
CSO Selected Focus Topics			
	Charter Term Deficiency	Charter Term Strength	Balanced Rating
A. Compiles a record of substantial compliance	5	7	
B. Has undertaken appropriate corrective action	2	6	
C. Works to ensure that teachers are certified	2	7	
D. Seeks approval for material and non-material revisions	1	7	
E. Maintains sufficient enrollment demand for the school to meet the expectations detailed in the enrollment plan	2	8	
F. Seeks guidance from its legal counsel	N/A	10	

IV. CSO’s Arbitrary Assessment of Benchmark 10 Will Have a Lasting and Detrimental Effect on the School

CSO’s conclusion that the School falls far below Benchmark 10, if reported publicly, will have a devastating impact on the School.

Again, CSO’s important work forms the basis for the Board of Regents’ decision to renew a charter school’s charter. Nothing could be more crucial to the continued existence of a school, in this case a school that employs a diverse and dynamic teaching staff, 75% of which identify as people of color, and provides a positive and enriching academic environment, tutoring and one-on-one mentorship and tutoring for scholars.

If CSO persists in disseminating information that the School has identified as demonstrably false, the School’s reputation will be irreparably damaged. The School’s Board and staff members will stand unfairly accused of violating and failing to comply with the law and the School’s charter.

Moreover, release of the Report will have dire financial consequences for the School, and place it in violation of covenants contained in its agreements with philanthropic supporters and lenders. For instance, the School’s ongoing funding through the XQ Institute is contingent upon

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the School remaining in compliance with all local, state and federal laws and regulations relating to the operation of the School. Tucker Letter at 11. Similarly, the Guaranty with the School's lender requires that the School is in compliance with all such laws and has conducted its business and operations in material compliance with them.

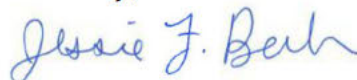
Thus, CSO's off-the-cuff and untrue statements that the School has not complied with state and federal laws will jeopardize the School's ability to receive donor funding, and potentially place the School in default of its guaranty obligations. The School may have no choice but to take legal action to counteract these dire consequences.

V. Conclusion

Should CSO continue down the path of issuing a final and publicly-available Report that contains the inaccuracies, arbitrary findings and assumptions that the School has identified in this here and in earlier submissions, there is no doubt that the School and its employees will be detrimentally affected. More professional and evidence-based authorizing may help to alleviate the need to take further action to address these concerns. As we have stated previously, we are certain that CSO wishes to avoid any such harm to the School, its school community and staff, and the important efforts of the Board of Trustees, who serve as stewards of public funds and in the public interest.

Thank you for your attention to this matter.

Sincerely,



Jessie F. Beeber

Attachments (Exhibits 1-13)

cc: Mickey Revenaugh, Chairperson, Board of Trustees, Brooklyn Laboratory Charter Schools
Eric Tucker, Executive Director, Brooklyn Laboratory Charter Schools
[REDACTED], NYSED
[REDACTED], NYSED
Aaron Baldwin, NYSED



May 26, 2022

VIA EMAIL: [REDACTED]@nysed.gov

Mr. [REDACTED]
Chief of Staff
Office of Education Policy
New York State Education Department
89 Washington Ave., Rm. 2M
Albany, NY 12234

Re: **Brooklyn Laboratory Charter School/Response To Demand To Remove Trustees**

Dear [REDACTED]:

This firm acts as outside counsel to Brooklyn Laboratory Charter School (“Brooklyn Lab”) with respect to various regulatory and compliance matters. I am a former Deputy Chief of the Charities Bureau of the Office of the New York State Attorney General, an adjunct professor at New York Law School (where I have long taught the course on nonprofit organizations), and a frequent author and lecturer on matters relating to New York nonprofit law. As such, I have for a number of years consulted with the senior executives and trustees of Brooklyn Lab on governance, compliance, and fiduciary matters, including providing periodic training to senior executives, trustees, and board officers. In the process, I have been very impressed with the ability of Brooklyn Lab to recruit a diverse, committed, experienced, and hard-working group of trustees and officers who have served Brooklyn Lab with distinction and dedication.

As such, I am respectfully quite surprised and disappointed by the unwarranted demand that Brooklyn Lab summarily remove an outstanding group of four members of the Brooklyn Lab Board of Trustees (as described more fully below). This demand has been made notwithstanding the clear compliance of these four trustees with the obligation to timely complete and submit to Brooklyn Lab accurate and proper financial disclosure forms, as a result of logistical difficulties (not attributed to those trustees in any respect) that arose through the effort of Brooklyn Lab to scan and forward these forms during the pandemic. Moreover, Brooklyn Lab promptly responded to the belated notification that there were legibility issues with respect to the submissions of these four trustees by promptly (during the December 2021 Christmas recess)

resubmitting in a clearer form the very same documentation that the four trustees had properly completed prior to their August 1, 2021 deadline.

There is clearly no basis for demanding or even requesting the removal of any of these four trustees under these circumstances. They have not acted improperly or in violation of any legal or fiduciary obligations, and they should not be held responsible for logistical and transmission difficulties of Brooklyn Lab which were unintended and accidental during a pandemic (which were not in any event the fault of any of these four trustees.) The arbitrary and unwarranted demand for their removal has no legal and factual basis under these circumstances.

Moreover, the removal of any of these four trustees would be contrary to the interests of Brooklyn Lab and its charitable mission, which includes (as set forth on the School's website) preparing its "scholars with the academic foundation, digital literacy, and leadership skills they need to succeed in college and professional life as they grow as ethical leaders." Brooklyn Lab's outstanding board of trustees mirrors the diversity of its scholars. The four individuals whose removal is inappropriately sought include:

1. **Nadine Augusta**, a Black woman, is the Chief Diversity, Equity & Inclusion Officer at Cushman & Wakefield. She is a long-term resident of Community School District 13, and her school-age son attends school in the district. She previously served on the Uncommon Schools Board of Trustees and currently serves as a member of the Board of Coro New York Leadership Center. She is a long-term member of the Brooklyn Laboratory Charter Schools Board of Trustees and has completed accurate and timely Financial Disclosure forms each year of service consistent with the Charter Agreement. She previously served as Americas Head of Diversity & Inclusion at Goldman Sachs and before that as Head of Diversity and Inclusion in social responsibility for the Depository Trust Clearing Corporation (DTCC). There, she was responsible for leading the respective strategies for the company, including setting the global agenda, establishing the infrastructure and managing strategic relationships. Nadine earlier served as Senior Vice President for global diversity and inclusion for Bank of America. She also held positions in global technology and operations, as part of the Bank of America/Merrill Lynch Merger Integration Team. Nadine brings more than 20 years of experience in financial services, augmented by completion of the Ascent Executive Leadership Program at the Tuck School of Business at Dartmouth.
2. **Tokumbo Shobowale**, a Black man, serves as Executive Vice President for Business and Operations and Chief Operating Officer of The New School. He is a long-term resident of Community School District 13, where his wife and he are raising his school aged-children. He served as the founding Chair of the Board of Directors at Leadership Prep Charter Schools for a decade, and was a Trustee through the formation of Uncommon Schools, Brooklyn. He is a long-term member of the Brooklyn Laboratory Charter Schools Board of Trustees and has completed accurate and timely Financial Disclosure

forms each year of service consistent with the Charter Agreement. Prior to the New School, he served the City of New York as Chief Business Operations Officer, Chief of Staff for economic development within the Office of the Mayor, and as Chief Operating Officer and Executive Vice President of the New York City Economic Development Corporation. In these roles, Tokumbo facilitated the city's economic diversification and, in particular, the applied sciences initiative, which attracted Cornell-Technion to New York City and facilitated NYU-Poly's creation of the Center for Urban Science and Progress. He has worked at McKinsey and Co. and at Dalberg. He holds an MBA from MIT's Sloan School of Management, an MA from Columbia University's School of International and Public Affairs, and AB from Stanford University.

3. **Mickey Revenaugh** is co-founder of Connections Academy, a pioneering global provider of K-12 online learning that was founded in 2001 and now serves more than 100,000 students around the world as part of Pearson. Mickey's current work at Pearson is focused on bringing innovative education opportunities, including international UK virtual schooling, to learners around the globe. Mickey is a long-term resident of Brooklyn and has extensive relevant professional and governance experience. Mickey is Board Chair of the Barbara J. Dreyer Cares Foundation and Board Member (and former Board Chair) at the Aurora Institute (formerly iNACOL). She is a long-term member of the Brooklyn Laboratory Charter Schools Board of Trustees and has completed accurate and timely Financial Disclosure forms each year of service consistent with the Charter Agreement. Previously, Mickey helped launch the E-rate to wire every American school to the Internet and was education technology editor at Scholastic. Mickey has a BA from Yale University, an MBA from New York University, and an MFA from Bennington College. She lives and works in Brooklyn, NY.

4. **Adrien Siegfried** is the Vice President of Systems and Data at Achievement First in downtown Brooklyn, and lives with his family in Community School District 13. He was a special education teacher in public elementary and middle schools through the New York City Teaching Fellows. He is a long-term member of the Brooklyn Laboratory Charter Schools Board of Trustees and has completed accurate and timely Financial Disclosure forms each year of service consistent with the Charter Agreement. He formerly served as Director, Finance and Analytics, at Ultimate Medical Academy, a non-profit online adult education school focusing on training for labor needs in the allied healthcare industry, where he works cross-functionally across the organization to make improvement to operations and lowering costs. In that role, he worked closely with Marketing and Admissions to carefully monitor enrollments, as well as focusing on people analytics to promote a healthy and robust work force. Previously, he was Deputy Executive Director of Data and Analytics at the Department of Early Childhood Education at the New York Department of Education, where he built a team of data

analysts to fulfill Mayor DeBlasio's commitment to offering every four year old a Pre-K seat. He also worked in the Office of Portfolio Management, which was responsible for the Department of Education's planning for districts, as well as charter school coordination, including co-locations. He has also held leadership positions at the Federal Reserve Bank of New York. He has a BA in International Relations from NYU, a Masters of Science in Education from City College, and a Masters in International Affairs from Columbia University.

We respectfully urge on behalf of our client that the demand to remove this diverse, highly qualified, and dedicated group of trustees be withdrawn, based on the circumstances under which the demand has been made, and in the best interests of the children served by Brooklyn Lab.

Respectfully,

A handwritten signature in blue ink that reads "David G. Samuels". The signature is fluid and cursive, with a long horizontal stroke at the end.

DAVID G. SAMUELS

cc: (via email)

Aaron Baldwin, Esq. (Aaron.Baldwin@nysed.gov)

Mr. Eric Tucker (eric@brooklynlaboratoryschool.org)



May 27, 2022

██████████
Chief of Staff
Office of Education Policy
New York State Education Department
89 Washington Ave., Rm. 2M
Albany, NY 12234

Dear ██████████:

We represent Brooklyn Laboratory Charter Schools (LAB) as its Owner's Representative in connection with its school facilities at 77 Sands Street and 240 Jay Street. LAB hired UPC to project manage the buildout of its flagship facilities at 77 Sands Street in Brooklyn, NY. UPC also served as LAB's Owner's Representative during the water damage incident that occurred in 2019, working with the school to undertake immediate recovery and remediation after the incident, as well as subsequent extensive repairs to return its facilities to pre-water damage conditions.

It has come to our attention that in its draft Renewal Site Visit report for Brooklyn Laboratory Charter Schools, the New York State Education Department Charter School Office (the "CSO") has raised concerns regarding the safety of LAB facilities and LAB's compliance with applicable laws and regulations, citing amongst other items, the fact that LAB has a Temporary Certificate of Occupancy (TCO) instead of a Certificate of Occupancy (CO) for its facilities.

Please note that all Brooklyn Laboratory Charter Schools facilities have been built in accordance with their original designed and approved plans, following all applicable laws, regulations, and building codes in NYC. In addition, the systems at all of the facilities (e.g., plumbing, electrical and mechanical) were subject to multiple safety inspections, which they passed at every stage. All facilities are also regularly inspected and have passed all such inspections since the fit-outs were completed.

While it is true that both buildings where LAB operates its schools currently have TCOs instead of COs, we ask you to note that this is commonplace for buildings like the ones LAB occupies, and also that obtaining a CO is entirely outside of LAB's control. That is because LAB's facilities are located in commercial buildings that are shared with other occupants and that are owned and managed by entities other than LAB.

Article 118 of the NYC Administration and Construction Codes states that a building will not be issued a final CO until all open applications in the entire building are closed and all violations are resolved, irrespective of the completed state or use of an individual occupant's space. Individual units that have met the requirements for a CO are granted TCOs until a final CO can

be issued to cover the entire building. Importantly, TCOs are valid occupancy certificates in such circumstances.

Here, LAB has been operating under TCOs at both of its locations not because LAB itself has any open applications or violations, but because other occupants or responsible parties in those buildings have open applications or violations on their spaces, and the completion, inspection, and compliance necessary to close them out is beyond LAB's control. As long as the applications and violations of these other occupants remain open, the building as a whole cannot obtain its CO, and LAB must continue to operate under a TCO.

Note as well that all of LAB's facilities are subject to a complete inspection by the Department of Buildings every 18 months as a condition of TCO renewal, and that LAB facilities have always passed those periodic inspections and have always maintained valid occupancy certificates.

Note also that within NYC, more schools (including schools operated by the DOE) have a TCO rather than a CO, and some operating schools only have a Letter of Authority due to building conditions and ongoing construction. Even in cases of new construction for a school in a stand-alone facility, it can often take up to 10 years to get a final CO.

Given these facts, it is our opinion that the CSO's concerns are misplaced. It cannot be argued by any stretch of the imagination that LAB is operating unsafe facilities for its staff and students.

We'd also like to add that in our experience, LAB has always prioritized student safety and wellbeing and has been a noted thought leader and driver for safe school operation and student instruction.

UPC worked with LAB for over a year to rebuild 77 Sands after the water damage incident in 2019, and witnessed the diligence, care, and responsibility LAB took to make sure the health and safety aspects of the restoration were approached intentionally. This level of stewardship from the Board and management team should be acknowledged, recognized, and even encouraged.

This has also been amply demonstrated during the pandemic, when LAB was one of the first organizations in NYC to begin efforts to reopen and operate safely due to the responsibility it felt for its students and the wider community. UPC worked with LAB to convene a charette of leading design firms, medical practitioners, and air quality specialists to identify solutions to challenges LAB and schools across the country were facing. LAB also worked with leading student instruction experts and applied research partners to create solutions for safe occupancy and instruction that could be used by all.

From these partnerships, LAB derived and released into the public domain several solutions to these challenges modeled after its own successful implementation. These included modifications to its HVAC system to improve air quality and flow in alignment with ASHRAE recommendations for air quality during COVID, modifications to its instructional and other spaces, and development of arrival and building access strategies that prioritize student and staff safety in all aspects.

I outline below a few of these resources and processes, in order to emphasize the seriousness with which the school has devoted itself to health, safety, and community responsiveness.

[The Back to School Facilities Tool Kit](#): Together, LAB, UPC, and architecture firms Gensler, PBDW, PSF Projects, SITU, and WXY developed a Tool Kit consistent with the Center for Disease Control (CDC) and The American Federation of Teachers (AFT) recommendations that explores:

- *Mapping a safe journey from home to the school*: The first set of ideas is guided by shared concerns of families, students, staff members, and community stakeholders about maintaining health and safety from the time individuals leave their front doors through the arrival and entry process, taking into consideration the very real egress challenges LAB and many other schools face.
- *Upgrading the school*: The second set of ideas focuses on practical and feasible re-mapping of classrooms, breakout rooms, and common spaces to comply with social distancing requirements.

The Brooklyn Laboratory Charter Schools [Restoration Solutions Facilities Guide](#) was developed through a partnership with UPC in the late spring and early summer of 2020 and is updated periodically. It aims to provide a framework, grounded in current recommendations from relevant governing bodies, for a safe return to and operation of LAB during the COVID-19 pandemic.

The school is committed to keeping its students, teachers, staff, and their families safe. It has taken additional precautions for students with disabilities, underlying health conditions, asthma or respiratory illness, and special education requirements. To navigate and operationalize the evolving Health and Safety Guidance, the school has tapped into many resources, both internal and external, to develop a guide that lays out new protocols to safeguard school community health and well-being. This resource reflects the school's commitment to providing meaningful, safe options for in-person education for scholars. It reflects extensive work with leaders in medicine, public health, design, education, and equity to create approaches and systems that safeguard health and promote learning and thriving. This guide includes practical recommendations, based on guidelines from the Centers for Disease Control and Prevention (CDC), the American Academy of Pediatrics (AAP), and the World Health Organization (WHO). This is a working document that is regularly updated to incorporate new directives and introduce practices from the CDC, NYSED, and the WHO as they are disseminated. The guide covers a wide range of topics, including:

- masking requirements;
- vaccination expectations;
- cleaning and disinfecting procedures;
- instructions for setting up a crisis response team;
- on-site health screenings; and
- protocols for isolating students or staff who become ill while in school facilities.

The Guide is divided into two sections. The first section (Greenbook) provides general guidance on LAB's preventative and proactive public health measures. The second section (Redbook) provides specific guidance on how to isolate and handle a COVID-19 case.

Facilities Guide and Toolkit that set parameters for the BLCS Reopening Plan. [Public School Facilities Planning in the Era of COVID-19 Guide](#): The Facilities Guide outlines the lessons LAB learned from its journey to safeguard the school community's health, and serves as a tool to learn from and improve its process, planning, and approach. Over the course of 16 weeks between April and August of 2020, LAB held more than 150 meetings (including a set of intensive working sessions, or *charrettes* in design parlance) to gather insight from industry experts, government officials, architects, urban designers, educators, staff members, parents, scholars, and many others. These charrettes facilitated the brunt of this work. They intentionally sought to make the meetings safe zones to share hopes, fears, concerns, and ideas, placing a value on vulnerability as an avenue to learning and growth. As a group, they set out to answer key questions:

1. What will classrooms look like and feel like?
2. How can we keep students and teachers safe on their way to and from school?
3. How will we honor scientific and public health guidelines?

The guide answers all of these questions. It includes specific calculations for how to rearrange a classroom so students are seated at an appropriate distance from one another (and the teacher). It offers advice on ingress and egress, on what to do when schools suspect students or staff have been exposed to COVID-19, and on contact tracing. The guide even delivers a [free set of easy-to-understand icons](#) designed to communicate important but complicated information to a variety of constituents.

The SY21 [Master Facilities Plan](#). This plan and binder of documentation functions as a guide for preparing the physical spaces of Brooklyn Laboratory Charter Schools for reopening following the COVID-19 closures. The floor plans reflect measures for social distancing, enhanced sanitation, and contact tracing. The furniture and equipment plans reflect the [Instructional Program Scheduling Map](#) specifications to ensure special education services compliance. It includes contact tracing plans, occupancy calculations based on social distancing, HVAC assessment and mechanical work, isolation/quarantine room protocols, and plumbing assessment. This binder represents the practical adaptation of prototypical design concepts from the Facilities Toolkit and Scheduling Map to the specific spaces of Brooklyn Lab.

[The Front Porch](#): A training guide and set of training videos for arrival routines. With input from students, families, staff, and community members, LAB developed preliminary design concepts with UPC, SITU, and WXY to adapt its middle and high school facilities and operations at 77 Sands Street. In addition to prioritizing social distancing, temperature checks, staggered

scheduling, and increased points of entry, LAB built a “front porch” for students and staff to gather at a safe social distance for school entry and exit.

In summary, it is our belief that LAB has continually demonstrated its commitment to the health and safety of its faculty, students, and staff and has operated its facilities in compliance with all applicable laws and regulations. It has been an honor to work alongside LAB on these noble endeavors.

We are happy to answer questions or to provide further documentation at your request.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Tricia Forrest". The signature is fluid and cursive, with the first letter 'T' being particularly large and stylized.

Tricia Forrest
Managing Partner and Principal
Urban Projects Collaborative LLC



ARCHITECTURE + INTERIOR DESIGN

New York State Education Department

New York State Education Building
Charter School Office
Room 5N EB Mezzanine
89 Washington Avenue
Albany NY 12234

May 27th 2022

Dear NYSED Charter School Office

Re: Brooklyn Lab Charter School – Fire Safety Inspections

We are the Architects of Record for Brooklyn Laboratory charter School and are a Certified NYC Special Inspection Agency engaged to conduct annual fire safety inspections at all Brooklyn Laboratory Charter School Campuses. We are writing to confirm compliance of NYSED annual fire inspection regulations by Brooklyn laboratory Charter Schools in Brooklyn, New York.

Brooklyn Laboratory Charter Schools operates two campuses at the following locations:

1. 77 Sands Street, Floors 2-5
2. 240 Jay Street – Partial Basement, 1st floor and Mezzanine.

These campuses are located in larger buildings with mixed occupancies, and in the case of 240 Jay Street mixed ownership, where Brooklyn Laboratory Charter School only occupies a portion of the structures. The two campuses underwent tenant fit out alterations in 2015 for 240 Jay Street and 2018 for 77 Sands. These alterations both involved change of use applications from office use to school use and were filed in compliance with the then applicable NYC Department of building codes with respect to Construction, Plumbing, Electrical, Mechanical and Fire Alarm. The schools underwent various inspections by the NYC Department of Buildings and NYC Fire Department which passed leading to the issuance of Temporary Certificates of Occupancy and allowed Brooklyn Laboratory Charter School to occupy the spaces for the intended School use.

The New York City Fire Department has also made annual fire inspections to meet NYSED requirements which have, with the exception of an inspection of 08/11/2020 at 77 Sands Street, consistently passed without comment as is evidenced in the attached fire inspection reports. The 08/11/2020 inspection, which was conducted during the height of COVID 19 pandemic shut downs, at a time when there were no students and only a skeleton staff on campus, resulted in issuance of a violation for failure to produce a certificate of fitness for a certified drill inspector. This violation had nothing to do with failure of substantive

building fire protection systems. It should be noted that Brooklyn Laboratory held a valid certificate of fitness at the time of inspection but the certified staff member, who had physical custody of the certificate, happened to be out of campus at the time. This certificate was duly submitted to the Fire Department shortly thereafter and the violation was cured without penalty. See attached copy of violation and cure letter from the fire department.

It has been our experience, that Brooklyn Laboratory Charter School has consistently followed our recommendations and maintained all fire protection systems in accordance with approved construction documents and in compliance with all Fire Department and Department of building regulations.

Respectfully submitted



Anthony C. Kiiru, AIA
President

Exhibit 4

77 Sands Campus

Fire, Life & Building Safety Certifications

Fire, Life & Building Safety Director

Fire Department of the City of New York



This Is To Certify That

IBRAHIM SABRI

Has Received A Certificate of Completion For

Fire and Life Safety Director (Z-89)

09/28/21

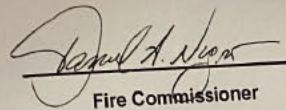
DATE OF AWARD

9139119

NUMBER

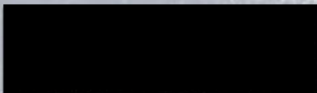
09/28/22

EXPIRATION DATE


Fire Commissioner

CERTIFICATE ISSUED BY FDNY

CERT.#



R

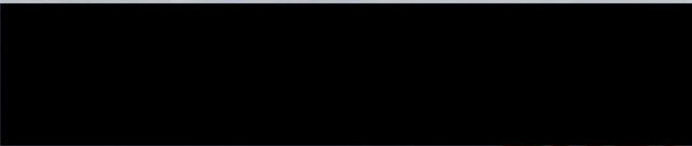
ISSUED 11/12/2021

EXPIRES 11/07/2024



NAME IBRAHIM SABRI

HOME



ADDR.

**NOT
FDNY
EMPLOYEE**

FEE \$ 15

CAT. S95 TYPE Fitness

DESC. SUPERVISION OF FIRE ALARM SYSTEMS AND OTHER RELATED SYST

EMPLOYER CUSTOM PROTECTIVE SERVICES

WORK 77 SANDS ST

LOCATION BROOKLYN, NY 11201

CERTIFICATE ISSUED BY FDNY

CERT.#



R

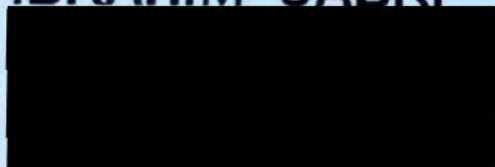
ISSUED 03/02/2020

EXPIRES 03/19/2023

NAME IBRAHIM SABRI

HOME

ADDR.



**NOT
FDNY
EMPLOYEE**



FEE \$ 15

CAT. F85 TYPE Fitness

DESC. FSD W/ACT SHOOTER & MED EMER PREP

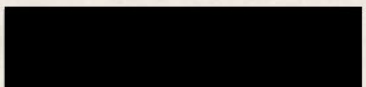
EMPLOYER CROWNE PLAZA HOTEL

WORK 151-20 BAISLEY BLVD

LOCATION QUEENS, NY 11434

CERTIFICATE ISSUED BY NYC FIRE DEPT

CERT.#



D

ISSUED 07/25/2019

EXPIRES 07/22/2022



NAME IBRAHIM SABRI

HOME



ADDR.

**NOT
FDNY
EMPLOYEE**

FEE \$ 5

CAT. F03 TYPE Fitness

DESC. INDOOR PLACE OF ASSEMBLY SAFETY PERSONNEL

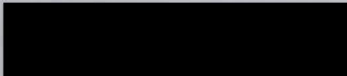
EMPLOYER RFR/K 55 PROSPECT OW'NER LLC

WORK 55 PROSPECT ST

LOCATION BROOKLYN, NY 11201

CERTIFICATE ISSUED BY FDNY

CERT.#



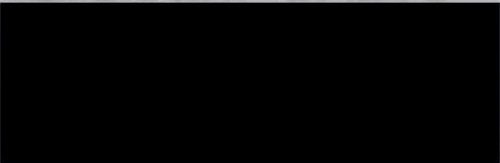
R

ISSUED 09/20/2019

EXPIRES 10/19/2022

NAME IBRAHIM SABRI

HOME
ADDR.



**NOT
FDNY
EMPLOYEE**



FEE \$ 15 CAT. S12 TYPE Fitness

DESC. CITY WIDE SPRINKLER SYSTEMS

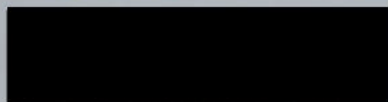
EMPLOYER CPS CUSTOM PROTECTIVE SERVICES

WORK

LOCATION ,

CERTIFICATE ISSUED BY FDNY

CERT.#



C

ISSUED 02/26/2021 EXPIRES 02/23/2024

NAME IBRAHIM SABRI

HOME

ADDR.



**NOT
FDNY
EMPLOYEE**



FEE \$ 15 CAT. S13 TYPE Fitness

DESC. CITY WIDE STANDPIPE SYSTEMS

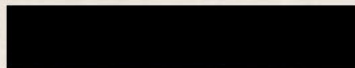
EMPLOYER CPS CUSTOM PROTECTIVE SERVICES

WORK

LOCATION ,

CERTIFICATE ISSUED BY FDNY

CERT.#



R

ISSUED 09/20/2019

EXPIRES 09/14/2022



NAME IBRAHIM SABRI

HOME

ADDR.



**NOT
FDNY
EMPLOYEE**

FEE \$ 15

CAT. F01 TYPE Fitness

DESC. CITYWIDE FIRE GUARD FOR IMPAIRMENT

EMPLOYER CPS CUSTOM PROTECTIVE SERVICES

WORK

LOCATION ,

CERTIFICATE ISSUED BY NYC FIRE DEPT

CERT.#



D

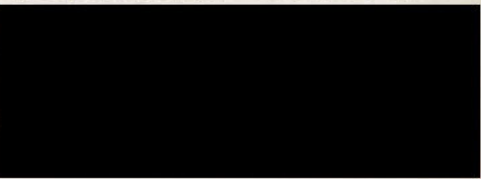
ISSUED 07/25/2019

EXPIRES 07/25/2022



NAME IBRAHIM SABRI

HOME



ADDR.

**NOT
FDNY**

EMPLOYEE

FEE \$ 5

CAT. F04 TYPE Fitness

DESC. TEMP INDOOR/OUTDOOR PLACE OF ASSEMBLY, SAFETY PERSONNE

EMPLOYER RFR/K 55 PROSPECT OWNER LLC

WORK

LOCATION ,

OSHA

600482018



U.S. Department of Labor
Occupational Safety and Health Administration

IBRAHIM SABRI

has successfully completed a 30-hour Occupational Safety and Health
Training Course in

Construction Safety & Health

Rick C. Knight

5/23/2009

(Trainer)

(Date)

Supervision of Fire Alarm

CERTIFICATE ISSUED BY FDNY

CERT.#



D

ISSUED 01/24/2022

EXPIRES 01/24/2025



NAME PIERRE R CHARLES

NOT

HOME



FDNY

ADDR.

EMPLOYEE

Pierre R. Charles

FEE \$ 5

CAT. S95 TYPE Fitness

DESC. SUPERVISION OF FIRE ALARM SYSTEMS AND OTHER RELATED SYST

EMPLOYER BROOKLYN LABORATORY CHARTER SCHOOL

WORK 77 SANDS ST

LOCATION BROOKLYN, NY 11201

CERTIFICATE ISSUED BY FDNY

CERT.#



D

ISSUED 02/10/2022

EXPIRES 02/10/2025

NAME AULANDAR D YOUNG

HOME



ADDR.

NOT
FDNY
EMPLOYEE



Aulandar Young

FEE \$ 5

CAT. S95 TYPE Fitness

DESC. SUPERVISION OF FIRE ALARM SYSTEMS AND OTHER RELATED SYST

EMPLOYER BROOKLYN LABORATORY CHARTER SCHOOL

WORK 77 SANDS ST

LOCATION BROOKLYN, NY 11201

CERTIFICATE ISSUED BY FDNY

CERT.#



N

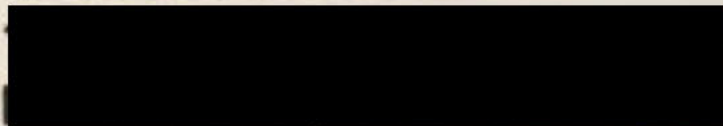
ISSUED 01/19/2022

EXPIRES 01/19/2025



NAME ROBERT L CATOE

HOME



ADDR.

**NOT
FDNY
EMPLOYEE**

FEE \$ 25

CAT. S95 TYPE Fitness

DESC. SUPERVISION OF FIRE ALARM SYSTEMS AND OTHER RELATED SYST

EMPLOYER BROOKLYN LABORATORY CHARTER SCHOOL

WORK 240 JAY ST

LOCATION BROOKLYN, NY 11201

Fire Drill Coordinator

CERTIFICATE ISSUED BY FDNY

CERT.#



D

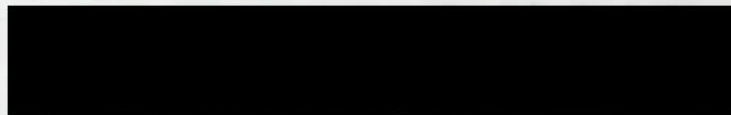
ISSUED 04/04/2022

EXPIRES 04/04/2025

NAME STERLING M FLORANT

HOME

ADDR.



**NOT
FDNY
EMPLOYEE**



FEE \$ 5

CAT. F07 TYPE Fitness

DESC. FIRE AND EMERGENCY DRILL CONDUCTOR

EMPLOYER BROOKLYN LABORATORY CHARTER SCHOOL

WORK 77 SANDS ST

LOCATION BROOKLYN, NY 11201

CERTIFICATE ISSUED BY FDNY

CERT.# [REDACTED] N
ISSUED 08/19/2020 EXPIRES 08/19/2023



NAME AARON DALY-FRITH
HOME [REDACTED]
ADDR. [REDACTED]

**NOT
FDNY
EMPLOYEE**

FEE \$ 25 CAT. W07 TYPE Fitness
DESC. FIRE AND EMERGENCY DRILL CONDUCTOR(CITYWIDE)

EMPLOYER BROOKLYN LABORATORY CHARTER SCHOOL
WORK
LOCATION ,

CERTIFICATE ISSUED BY FDNY

CERT.#



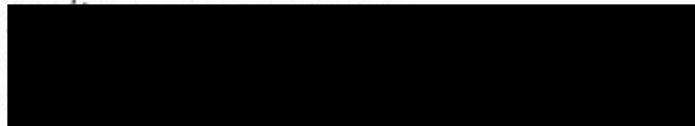
N

ISSUED 04/01/2022

EXPIRES 04/01/2025

NAME MALIKA ADREA

HOME
ADDR.



NOT
FDNY
EMPLOYEE



FEE \$ 25

CAT. W07 TYPE Fitness

DESC. FIRE AND EMERGENCY DRILL CONDUCTOR(CITYWIDE)

EMPLOYER BROOKLYN LABORATORY CHARTER SCHOOL
WORK
LOCATION ,

CERTIFICATE ISSUED BY FDNY

CERT.#



N

ISSUED 03/11/2022

EXPIRES 03/11/2025

NAME ABIGAIL R ARCHBOLD

HOME

ADDR.



NOT
FDNY
EMPLOYEE



A. Archbold

FEE \$ 25

CAT. F07 TYPE Fitness

DESC. FIRE AND EMERGENCY DRILL CONDUCTOR

EMPLOYER BROOKLYN LABORATORY CHARTER SCHOOL

WORK 73 SANDS ST

LOCATION BROOKLYN, NY 11201

CERTIFICATE ISSUED BY FDNY

CERT.# [REDACTED] N
ISSUED 03/29/2022 EXPIRES 03/29/2025

NAME AULANDAR D YOUNG NOT
HOME [REDACTED] FDNY
ADDR. [REDACTED] EMPLOYEE



Aulandar Young

FEE \$ 25 CAT. W07 TYPE Fitness
DESC. FIRE AND EMERGENCY DRILL CONDUCTOR(CITYWIDE)

EMPLOYER BROOKLYN LABORATORY CHARTER SCHOOL
WORK
LOCATION ,



BROOKLYN LAB
CHARTER SCHOOL

May 30, 2022

██████████
Chief of Staff
Office of Education Policy
New York State Education Department
89 Washington Ave., Rm. 2M
Albany, NY 12234

RE: Health, Fire, and Building Safety at Brooklyn Laboratory Charter Schools

Dear ██████████:

As three administrative leaders and long-term members of the Brooklyn Laboratory Charter Schools (the School) team, we are writing in response to the New York State Education Department Charter Schools Office (CSO) Renewal Report’s inaccurate description of the School’s record for health, fire, and building safety. The well-being and safety of all members of our School community is of paramount importance to us as professionals, and we have an interest in the report accurately reflecting the significant and successful efforts we have taken to promote the same.

In assessing Benchmark 10, Legal Compliance, the Renewal Report makes comments about the School’s interactions with the New York City Fire Department (FDNY) and the New York City Department of Buildings (DOB). The Report implies that the School is somehow not in compliance with FDNY and DOB regulations, which is not true.

The Renewal Report is in need of revision in three primary areas.

First, the Renewal Report mentions that in August 2020 an FDNY inspection conducted at 77 Jay Street resulted in the issuance of a summons and cure letter for “violations.” Renewal Report at 36. The implication is that the FDNY found the School’s premises to be unsafe. That is not true. In fact, the School has a strong track record of fire safety, and should have been rated “Meets” on that component of this indicator.

Moreover, as set forth in more detail in the letter from Anthony C. Kiiru, a licensed architect and Founder of AKA Studio LLC (“AKA”), that FDNY summons from August 2020 had nothing to do with an unsafe condition at the School. See Letter of Jessie F. Beeber, dated May 31, 2022 (the Beeber Letter), Ex. 3. Mr. Kiiru has worked on dozens of public charter school projects in New York and New Jersey, and has particular expertise in the NYC



Department of Buildings, the Fire Department of New York, and New York City special inspections and health and safety audits. His letter confirms:

- The School is in compliance with NYSED annual fire inspection expectations.
- It has been AKA's experience that the School has consistently followed AKA recommendations and maintained all fire protection systems in accordance with approved construction documents and in compliance with all Fire Department and Department of building regulations.
- The two campuses underwent tenant fit out alterations which were filed in compliance with the then applicable NYC Department of Building codes with respect to Construction, Plumbing, Electrical, Mechanical and Fire Alarm.
- The two campuses underwent various inspections by the NYC Department of Buildings and NYC Fire Department which they passed, leading to the issuance of Temporary Certificates of Occupancy that allowed the School to occupy the spaces for the intended School use.
- The New York City Fire Department has also made annual fire inspections at 77 Sands Street to meet NYSED requirements, which the School has always passed without comment (with the exception of an inspection on 08/11/2020 discussed further below).

With regard to the 08/11/2020 inspection, Mr. Kiiru notes that it was conducted during the height of COVID-19 pandemic shut downs, at a time when there were no students and only a skeleton staff on campus, as dictated by social distancing guidelines and restrictions on gathering sizes; this resulted in the issuance of a violation for failure to produce a Certificate of Fitness for a certified fire drill inspector when requested. Mr. Kiiru notes that the violation had nothing to do with failure of substantive building fire protection systems.

The typical Bureau of Fire Prevention approach if a specific Certificate of Fitness holder is not immediately available when a certificate is requested, is to have that individual report to 9 Metro Tech Center with the required Certificate within a specified time range. This approach provides a low-stakes way for the timely review of staff qualifications without unduly delaying onsite inspections. As the School communicated to CSO on September 2, 2020, however, the School's repeated efforts to physically report to Metro Tech were unsuccessful because FDNY staff members were offsite due to pandemic protocols. The routine, low-stakes approach of matching a valid Certificate of Fitness with the individual named and pictured on said Certificate was thus complicated by COVID-19 workplace protocols at FDNY.

As Mr. Kiiru notes, however, the School's 77 Sands campus had fully sufficient, valid Certificates of Fitness at the time of the 08/11/2020 inspection. Further, after repeated attempts to reach FDNY employees who were working offsite failed, the School duly submitted to FDNY the appropriate certificate.

It is the School's perspective that if COVID-19 workplace protocols were not in place, the School would have passed this inspection without comment. Instead, FDNY issued a violation that was rapidly cured without penalty.



Again, there is no doubt that the School has trained and qualified fire safety personnel on staff and available to assist if needed. Attached to the Beeber Letter as Exhibit 4 is documentation regarding the safety qualifications of 77 Sands Campus Fire, Life & Building Safety Director Ibrahim Sabri. Mr. Sabri's valid Certificates of Fitness issued by the Fire Department of New York include: Fire Safety Director with Active Shooter and Medical Emergency Preparation (F85); Fire and Life Safety Director (Z89); Place of Assembly Safety Personnel (F04 & F03); Supervision of Fire Alarm System and Other Related Systems (S96); Citywide Fire Guard for Impairment (F01); City Wide Sprinkler Systems (S12); and City Wide Standpipe Systems (S13). Mr. Sabri has also successfully completed a 30-hour Occupational Safety and Health Administration (U.S. Department of Labor) training course in Constructional Safety and Health. Documentation for additional BLCSS employees with Supervision of Fire Alarm Systems and Other Related Systems (S95) and Fire and Emergency Drill Conductor (W07) is included.

The School wonders whether there is another campus across the entire CSO authorized portfolio with as strong of a track record and set of qualifications as this team at 77 Sands. Framing fire safety as a compliance concern is inaccurate and harmful to our School. Why is it necessary to paint the school in the weakest possible light with regard to this critical safety issue?

Second, CSO suggests in the Renewal Report that the fact that the School has a Temporary Certificate of Occupancy (a TCO) means that the School is not compliant with DOB regulations. Again, that is untrue. The School's building safety track record is excellent and should be spotlighted as an "Exceeds" rating and a strength in CSO's Renewal Report. **Exhibit 2** to the Beeber Letter is a letter to you from **Tricia Forrest**, the Managing Partner and a Principal at Urban Projects Collaborative LLC ("UPC") regarding CSO's incorrect assumptions regarding the School's Temporary Certificates of Occupancy (the "Forrest Letter").

As Ms. Forrest outlines, UPC represents the School as its Owner's Representative in connection with its school facilities at 77 Sands Street and 240 Jay Street. The School hired UPC to project manage the buildout of its flagship facilities at 77 Sands Street in Brooklyn, NY. UPC also served as the School's Owner's Representative during the water damage incident that occurred in 2019, working with the school to undertake immediate recovery and remediation after the incident, as well as subsequent extensive repairs to return its facilities to pre-water damage conditions.

Ms. Forrest writes that CSO's Renewal Report raises "concerns regarding the safety of LAB facilities and LAB's compliance with applicable laws and regulations, citing amongst other items, the fact that LAB has a Temporary Certificate of Occupancy (TCO) instead of a Certificate of Occupancy (CO) for its facilities." Because of the muddled treatment in the Report, UPC confirms that all Brooklyn Laboratory Charter Schools facilities have been built in accordance with their original designed and approved plans, following all applicable laws, regulations, and building codes in NYC. In addition, the systems at all of the facilities (e.g.,



plumbing, electrical and mechanical) were subject to multiple safety inspections, which they passed at every stage. All facilities are also regularly inspected and have passed all such inspections since the fit-outs were completed.

Ms. Forrest states that while it is true that both buildings where the School operates its schools currently have TCOs instead of COs, this is commonplace for buildings like the ones the School occupies, and also that obtaining a CO is entirely outside of the School's control. That is because the School's facilities are located in commercial buildings that are shared with other occupants and that are owned and managed by entities other than the School. Article 118 of the NYC Administration and Construction Codes states that a building will not be issued a final CO until all open applications in the entire building are closed and all violations are resolved, irrespective of the completed state or use of an individual occupant's space. Individual units that have met the requirements for a CO are granted TCOs until a final CO can be issued to cover the entire building. Importantly, TCOs are valid occupancy certificates in such circumstances.

Ms. Forrest clarifies that the School has been operating under TCOs at both of its locations not because the School itself has any open applications or violations, but because other occupants or responsible parties in those buildings have open applications or violations on their spaces, and the completion, inspection, and compliance necessary to close them out is beyond the School's control. As long as the applications and violations of these other occupants remain open, the building as a whole cannot obtain its CO, and the School must continue to operate under a TCO. All of the School's facilities are subject to a complete inspection by the Department of Buildings every 18 months as a condition of TCO renewal, and the School's facilities have always passed those periodic inspections and have always maintained valid occupancy certificates.

She notes that within NYC, more schools (including schools operated by the DOE) have a TCO rather than a CO, and some operating schools only have a Letter of Authority due to building conditions and ongoing construction. Even in cases of new construction for a school in a stand-alone facility, it can often take up to 10 years to get a final CO. She shares UPC's perspective that CSO's concerns are misplaced. It cannot be argued by any stretch of the imagination that the School is operating unsafe facilities for its staff and students.

Ms. Forrest further notes that the School has always prioritized student safety and wellbeing and has been a noted leader and driver for safe school operation and student instruction. She writes, "UPC worked with LAB for over a year to rebuild 77 Sands after the water damage incident in 2019, and witnessed the diligence, care, and responsibility LAB took to make sure the health and safety aspects of the restoration were approached intentionally. This level of stewardship from the Board and management team should be acknowledged, recognized, and even encouraged."

Third, the Renewal Report should recognize and reward the School's inspiring implementation of building health and safety protocols in response to COVID-19. The School's efforts during this charter term were excellent and should be rated "Exceeds" by CSO in this



Report. Ms. Forrest observes that the School's commitment to health and safety was demonstrated during the COVID-19 pandemic, when the School was one of the first organizations in NYC serving vulnerable populations to begin efforts to reopen and operate safely. This came from the responsibility the School felt for its students and the wider community, and its dedication to provide the type of meaningful, 5-day a week in-person options provided to the affluent and well-connected. Ms. Forrest shares that UPC worked with the School to convene a charette of leading design firms, medical practitioners, and air quality specialists to identify solutions to challenges the School and schools across the country were facing. The School also worked with leading student instruction experts and applied research partners to create solutions for safe occupancy and instruction that could be used by all. From these collaborations, the School derived and released into the public domain several solutions to these challenges modeled after its own successful implementation. These included modifications to its HVAC system to improve air quality and flow in alignment with ASHRAE recommendations for air quality during COVID, modifications to its instructional and other spaces, and development of arrival and building access strategies that prioritize student and staff safety in all aspects. She outlines a few of those resources, in order to emphasize the seriousness with which the school has devoted itself to health, safety, and community responsiveness.

- [The Back to School Facilities Tool Kit](#): Together, the School, UPC, and architecture firms Gensler, PBDW, PSF Projects, SITU, and WXY developed a Tool Kit consistent with the Center for Disease Control (CDC) and The American Federation of Teachers (AFT) recommendations.
- The [Restoration Solutions Facilities Guide](#) was developed through a partnership with UPC in the late spring and early summer of 2020 and is updated periodically. It aims to provide a framework, grounded in current recommendations from relevant governing bodies, for a safe return to and operation of the School during the COVID-19 pandemic. This guide includes practical recommendations, based on guidelines from the Centers for Disease Control and Prevention (CDC), the American Academy of Pediatrics (AAP), and the World Health Organization (WHO).
- The [Public School Facilities Planning in the Era of COVID-19 Guide](#), a Facilities Guide and Toolkit that set parameters for the BLCS Reopening Plan.
- The SY21 [Master Facilities Plan](#). This plan and binder of documentation functions as a guide for preparing the physical spaces of Brooklyn Laboratory Charter Schools for reopening following the COVID-19 closures. The floor plans reflect measures for social distancing, enhanced sanitation, and contact tracing. The furniture and equipment plans reflect the [Instructional Program Scheduling Map](#) specifications to ensure special education services compliance.
- [The Front Porch](#): A training guide and set of training videos for arrival routines. With input from students, families, staff, and community members, the School developed preliminary design concepts with UPC, SITU, and WXY to adapt its middle and high school facilities and operations at 77 Sands Street.

These three components of building safety, compliance with FDNY regulations, compliance with DOB regulations, and implementation of pandemic related health and



BROOKLYN LAB
CHARTER SCHOOL

safety measures should all be rated “Meets”, “Exceeds”, and “Exceeds” respectively, based on the evidence we have submitted. The Renewal Report should not create the impression through its assessment of Benchmark 10 that health and safety matters are a weakness of the School. In point of fact, the School has continually demonstrated its commitment to the health and safety of its faculty, students, and staff and has operated its facilities in compliance with all applicable laws and regulations.

For these reasons, we believe that this NYSED CSO’s Renewal Report should reflect the strength of the School’s track record and work with regard to health, fire and building safety. We respectfully request that you revise the Report accordingly.

Sincerely,

DocuSigned by:
S Florant
109CAC003F95490

Sterling Florant
Director of School Operations

DocuSigned by:
Pierre Richard Charles
72D8148FD248449

Pierre Richard Charles
Operations Associate

DocuSigned by:
Eric Tucker
68CB3BB80265443...

Eric Tucker
Executive Director



BROOKLYN LAB CHARTER SCHOOL

Dear Colleagues,

Thank you again for sharing the draft Brooklyn Laboratory Charter School Renewal Site-Visit Report. We are grateful for your ongoing support and guidance. After a time-consuming review, we are requesting factual corrections be made to the School Description and Benchmarks 6 and 10.

We have outlined in detail our recommended factual corrections, with a focus on Benchmarks 6 and 10, in the attached document, along with the supporting documentation.* BLCS's diverse faculty, school operations and compliance team, leadership and Board sincerely hope that, upon review of the comprehensive, even exhaustive, additional documentation provided in this response, the Charter Schools Office (CSO) will determine that a significant portion of the deficiencies in Benchmark 10 are a result of factual inaccuracies. Those areas notwithstanding, it is evident that the School has met most of the indicators. Therefore, to better align the narrative report with mutual records of how Brooklyn Lab has addressed concerns, issues, and communicated with our previous CSO liaison and staff, we request that the overall rating for Benchmark 10 be raised to an "approaches" the standard and subsequently, Benchmark 6 be raised correspondingly to a "meets" the standard.

The Board notes that this draft report was received more than six months after the renewal site visit, and that the timeline stipulated by CSO to prepare this response was truncated to fewer than five business days that spanned April Break (Friday and Monday) at the school as well as the religious holidays of Ramadan, Good Friday, Easter, and Passover. Team members, including those listed below, rearranged their personal, family, and professional time to review the factual accuracy of the statements contained in the report. And, the Board worked to synthesize and distill team member feedback. It's worth noting that the frustration of school staff members upon whose professionalism and good work this report passes public judgment is palpable - both because they want to do right by students and families and because hasty generalizations impact them as professionals. In finalizing this draft, the Board has been constrained by time, the holidays, and a desire to reflect (at least to a modest degree) the sentiment of our diverse and broad staff which has worked to sustain compliance during a global health pandemic and over the course of an abbreviated renewal cycle. The Board acknowledges any gaps created by this accelerated timeline, and requests grace and acknowledgement of this if any sections have rough edges.

The wider cross-section of the compliance-focused staff have identified a significant number of factual inaccuracies in this report. To her credit, the new liaison has brought a heightened level of precision to Benchmark documentation. However, this renewal visit – the first in-person visit for any of us during the charter term and the first for the new liaison – spotlighted multiple instances of incomplete handover of documentation within the CSO. These types of transitions are inevitable, but should not be held against the professionals, families, or students who make up our high-need, highly-engaged school community.

We are grateful for NYSED CSO's ongoing support, guidance, and feedback that drive our own internal reflection and we look forward to any questions and clarifications. We are proud of our team's collective work and hope that we can continue fulfilling our mission on behalf of exceptional learners and their families in Brooklyn.

Best personal regards,



BROOKLYN LAB CHARTER SCHOOL

Martha “Mickey” Revenaugh, Chair, Board of Trustees
Nadine Augusta, Chair, Board Development and Nominating Committee
Eldridge Gilbert, Chair of School Management, Academic Committee
Walter “Pat” Loughlin, Chair, Compliance Subcommittee of the Finance Committee; Member, Future Ready Subcommittee of the Finance Committee
Jonathan McIntosh, Chair of Academic Program, Academic Committee; Member, Future Ready Subcommittee of the Finance Committee
Sujata Rajpurohit, Chair, Academic Committee
Tokumbo Shobowale, Finance Committee; Member, Future Ready Subcommittee of the Finance Committee
Adrien Siegfried, Chair, Finance Committee
Gary Wood, Chair, Future Ready Subcommittee of the Finance Committee and Chair, Facilities Subcommittee of the Finance Committee

School Responses Reflect the Professional Work Product of:

Abigail Archbold, Operations Manager
Nona Bishop, Director of Human Resources
Robert Catoe, School Operations
Pierre Richard Charles, Operations Associate
Lauren Cutuli, Future Ready Committee Participant
Sterling Florant, Director of School Operations
Jonathan Flynn, Director of Family & Community Engagement and Director of Public Affairs
Sheryl Gomez, Chief Financial Officer
Cecile Kidd, Bursar
Kristin Levine, Academic Committee Participant
Chuck Jones, School Director
Bb Ntsakey, Senior Director of Academics
Erica Pajerowski, Dean of Scholar Services
Melissa Poux, Deputy School Director
Katie Senft, Compliance Manager
Baeli Smith, ENL Program Coordinator
Eric Tucker, Executive Director
Jacob Xavier, Director of Data and Analytics

* The supporting documents are shared in this [google folder](#), with a naming convention that includes the benchmark and the indicator. If you'd like these materials shared via a Box, Dropbox, or ETF protocol, please contact Lauren Cutuli (lcutuli@brooklynlaboratoryschool.org) and Eric Tucker (eric@brooklynlaboratoryschool.org).



DESCRIPTION

Comprehensive Management Service Provider: Brooklyn Laboratory Charter Schools

School's Response: Brooklyn Laboratory Charter School does not have a Comprehensive Management Service Provider. The school requests that this be revised to read: "None."

Supporting Documentation: The December 22, 2016 merger application lists the name of the merged education corporation as "Brooklyn Laboratory Charter Schools." It lists the revised charter management agreements as "N/A.. The Report of Regents P-12 Education Committee to The Board of Regents from [March 13, 2017](#) reads: "Your Committee recommends that pursuant to the authority contained in Education Law §§223 and 2853(1)(b-1). 1. Brooklyn Laboratory Charter School be and hereby is merged with Brooklyn Laboratory Charter High School, with Brooklyn Laboratory Charter School as the surviving education corporation under the amended name Brooklyn Laboratory Charter Schools. 2. Brooklyn Laboratory Charter School, the surviving corporation, shall continue to 8 administer the educational operations and purposes of the constituent corporations in the same manner as they presently exist." The Regents item continues: "4. The merged corporation shall operate under the provisional charter granted to Brooklyn Laboratory Charter School under the amended name Brooklyn Laboratory Charter Schools, which is hereby amended to authorize the operation of two public charter schools as follows: i. Brooklyn Laboratory Charter School; and ii. Brooklyn Laboratory Charter High School." The December 7, 2021 Mid-Term Site Visit Report for Edmund W. Gordon lists the Comprehensive Management Service Provider as "None."

Noteworthy: Brooklyn Lab provides "entrepreneurial learning" opportunities for its high school (HS) students and offers enrichment courses such as robotics, public speaking, and digital video editing.

School's Response: It's accurate for this to read: "Brooklyn Lab provides 'entrepreneurial learning' opportunities for its high school (HS) and middle school (MS) students and offers enrichment courses such as robotics, public speaking, and digital video editing." The current phrasing risks signaling that middle school students do not experience "entrepreneurial learning."

Supporting Documentation: On December 27, 2021, CSO sent an email that read in part: "You indicated that you propose removing references to 360Lab and STEM AmeriCorps because those programs were provided under specific AmeriCorps funding or grants that are no longer available, but the school is still providing the same programs that it did under 360Lab. Please note that 360Lab is mentioned throughout the initial charter application and is described in significant detail. As part of your revision narrative, provide evidence that these programs are fundamentally the same (such as a curriculum crosswalk, content description, instructional hours, etc.) that will allow us to fully consider this. If the program is the same, just under a different name, this is non-material." On January 5, 2022, the School submitted a 21-page [consolidated response](#) to the questions asked in the last several days of 2021. It states, in part, that the middle school "DYCD programming is more robust than was described in the charter application. But all of the initial commitments have been fulfilled, and then some, including the following programs since inception:

Arcade Appreciation
Art Therapy

Art and Movement Therapy
AV Production

Basketball
Book Club



BROOKLYN LAB CHARTER SCHOOL

Boys Empowerment
Chess Club
Coding
Computer Programming
Cooking / Culinary Arts
Culture and Language
Dance
Debate
Digital Design
Digital Media
DJing
Drumming
Engineering Design
Film Production
Fitness

Girls Empowerment
Holiday Break Programming
Literature Circles
Maker-Faire
Math Club
Mindfulness & Yoga
Model UN
MOUSE Squad
NYC Explorers
Performing Arts
Piano
Photography
Poetry & Spoken Word
Robotics
Science Club

Small Group Tutoring
Soccer
Spanish Cultural Club
STEP
STEM Club
Student Government
Student Newsletter
Tennis
Theater and Speech
Track
Video Game Design
Visual Arts
Web Development
Weekend Field Trips
Writers' Workshop

Since robotics, public speaking, and digital video editing are considered entrepreneurial learning at the high school, these middle school program offerings should be considered as fulfilling (in part) that Key Design Element.”



Benchmark 6 - Board Oversight and Governance

BM 6 - Indicator A: The board utilizes an annual written performance-based evaluation process for evaluating school leadership, itself, and providers.

BM 6 - Indicator A #1: The board utilizes an annual written performance-based evaluation process for evaluating school leadership, but only inconsistently assesses its own effectiveness in a formalized manner. Until this year, the board completed an annual evaluation of the Brooklyn Lab's executive director; during the onsite focus group interview with trustees, participants described a shift to a quarterly review so that any issues could be addressed more promptly. The board reports it has completed two quarterly performance evaluations for the executive, in June and September 2021, thus far. Interviewed trustees spoke only generally about the executive director's goals and directives, including financial and organizational sustainability, staff retention, and academic achievement. Since the school opened in 2014, the board has only done one comprehensive board self-evaluation. Trustees do not use a written performance-based process to annually evaluate themselves.

School's Response: The minutes of the Board confirm that quarterly performance evaluations of the Executive Director have continued subsequent to the September site visit.

Furthermore, the school has provided CSO staff with several examples of written performance evaluations of the Board of contractors during the course of the charter term. For example, the Board shared, "[Board Oversight of InnovateEDU Operated Fellowship](#)" and an "[Oversight Memo](#)". The Board completed diligence on [pricing, quality and availability](#); [InnovateEDU competitive value add](#); a [third-party cost analysis](#); and a third-party analysis of the InnovateEDU Fellows [Theory of Action, Logic Model, & Measurement Framework](#). 18 some odd sets of documentation [shared with CSO by the Board regarding particular performance-based evaluation of this provider are loaded into this folder](#). The feedback received from CSO and others was that the reviews were exemplary and high quality.

The Board's response to the questions regarding self-evaluation suffered from a nomenclature challenge - related to understanding the specific question being asked. The Brooklyn Laboratory Charter Schools' Board regularly completes a cumulative self-evaluation under the banner of regular updates and reflections against an [Annual Calendar, Committee Goals, and Board Goals](#). The Board's Committee Goals and Annual Calendar is utilized to track progress and has been shared with NYSED CSO staff -- which tracks a written performance-based process that the Board uses to track its annual progress and self-evaluation. At each monthly Board meeting, the Board updates and reviews slides that provide a written performance-based evaluation of the activity of the Board. The Board refers to this process as the regular committee by committee review of the Annual Calendar and Board Committee Goals -- but it more than encompasses a written performance-based process to annually and summatively evaluate Board activity. The Board would be happy to share the monthly written updates that aggregate up to this annual update, if it would be helpful. These have been shared with CSO.



BROOKLYN LAB CHARTER SCHOOL

BM 6 - Indicator B: The board recruits and selects board members with a diverse set of skills and expertise that meet the needs of the school and represent the community in which the school serves.

BM 6 - Indicator B #1:

The board recruits and selects board members with a diverse set of skills and expertise that meet the needs of the school and represent the community in which the school serves. CSO records illustrate that board membership has remained stable since Brooklyn Lab first opened and that its seven trustees possess a range of legal, financial, business, marketing, technology, and education-related experience.

During the onsite focus-group interview with the board, participants stated that they saw a need to supplement the academic committee, so while they did not recruit additional trustees with K-12 experience, they currently retain two external education consultants to serve as strategic advisors to provide support to the academic committee and allow for “granular oversight of academic data.” These strategic advisors help to determine which information school leadership provides to the board to streamline their analysis and decision making.

Interviewed trustees also shared they would like to add more legal and financial expertise to the board as well as more ethnic, socio-economic, and gender diversity. The latter has consistently been a priority for the board; the school’s renewal application notes that 3/7 of Brooklyn Lab’s current board members identify as female and 3/7 identify as people of color.

School’s response: It should be noted that the Board proactively added two additional trustees with K-12 academic and school management experience, and secured additional targeted support. SED reflected on the importance of the Board securing additional K-12 school management experience in a December 7, 2021 Mid-Term Site Visit Report. Over the immediate term, the Board has recruited two School Leaders, with extensive K-12 experience, who have since been approved for addition to the Board. Jonathan McIntosh and Eldridge Gilbert III, were both approved by SED and were each individually appointed to the board in 2022. Jonathan and Eldridge are now part of our Academic Committees and provide oversight and advice regarding the school’s academic progress. The School also provided evidence in September that 6 Board members had K-12 school experience.

The School’s point of view is that: 1) the Board responded promptly and robustly to feedback immediately upon receipt and within the Charter Term in question, and while CSO was preparing its renewal report. That evidence could be considered. 2) The Board in fact has fully sufficient bandwidth in terms of K-12 capacity.

Finally, in its current composition, 5/9 of Brooklyn LAB’s Board members identify as people of color -- a majority. This includes Nadine, Tokumbo, Eldrige, Sujata, and Jonathan.

Supporting Documentation: The resumes and Board requests packages for Jonathan and Eldridge have been submitted and approved in the portal.



BROOKLYN LAB
CHARTER SCHOOL

BM 6 - Indicator C: The board demonstrates active oversight of the charter school's management, comprehensive service provider(s), if applicable, fiscal operations, and progress toward meeting academic and other school goals through written evaluation processes.

BM 6 - Indicator c #1: The board demonstrates active oversight of the charter school's management, comprehensive service provider(s), fiscal operations, and progress toward meeting academic and other school goals through written evaluation processes and a robust committee structure. Current standing committees include executive, finance/audit, academic, board development/nominating, and future ready. Brooklyn Lab's renewal application outlines many ways in which the board exercises its oversight. For example, collectively, these committees approve the school's annual budget and attempt to ensure that it operates in a fiscally sound manner, adheres to its mission and key design elements, uses a variety of performance data to inform strategic decision making, upholds legal requirements of its charter, and supports the school via advocacy and community outreach as appropriate. Board meeting minutes reviewed in preparation for the onsite renewal visit confirmed the aforementioned topics are regular agenda items for discussion.

School's response: No response needed.

Supporting Documentation: No response needed.



BM 6 - Indicator D: The board engages in strategic and continuous improvement planning by setting priorities and goals that are aligned with the school’s mission and charter.

BM 6 - Indicator d #1: The board engages in strategic and continuous improvement planning by setting priorities and goals that are aligned with the school’s mission and charter. While the board has invested additional time and resources into goal setting and sustainability planning over this past year as described below in indicator f, participants in the onsite focus-group interview confirmed that the Brooklyn Lab board has not yet completed a comprehensive strategic planning process to identify clear growth trajectories for the school.

School’s Response: The Board understands that conversation during the interview may reflect that “... the Brooklyn Lab board has not yet completed a comprehensive strategic planning process to identify clear growth trajectories for the school.” However, that conclusion is not factually accurate, but rather reflects a misunderstanding based on nomenclature. In fact, the Board’s Future Ready Subcommittee of the Finance Committee has engaged in a regular and sustained comprehensive strategic planning process over the past 36 months, including the identification of clear growth trajectories for the school. As such, the final sentence of this finding, as currently written, is factually inaccurate, likely due to semantic differences between what was discussed as short-term and long-term strategic planning as opposed to the development of an official document referred to as a “strategic plan.” The board’s ongoing work with external governance experts, Education Board Partners, is noted in the CSO’s feedback for indicator F, which states: “participants shared that EBP’s direction has impacted their evaluation system for the ED, their board calendar and plan, and draft performance goals in pursuit of “state of the art self-governance.” The consultants who supported the Future Ready Committee -- including Ampersand, SOAR, and KL Consulting -- have worked extensively to support the Board’s comprehensive strategic planning process including clear growth trajectories including financial models, facilities plans, academic program plans, and strategic priorities. After the renewal site visit, the board supplied additional documentation to the CSO, including EBP’s assessment results and the annual plan dashboard they created for Brooklyn Lab schools.” The board went through a comprehensive strategic planning process with EBP, which included the development of an annual plan dashboard and calendar, which is used to drive our priorities and what we discuss during monthly board meetings. This collective work amounts to a strategic plan that drives the ongoing performance analyses, oversight, and resource allocation process of the board.



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BM 6 - Indicator E: The board regularly updates school policies when needed and receives NYSED approval prior to applicable policy implementation.

BM 6 - Indicator E #1: The board regularly updates school policies when needed and receives NYSED approval prior to applicable policy implementation. Brooklyn Lab's renewal application describes a process by which committees lead monthly policy review sessions and present updates to the full board, often with the support of a relevant external expert or consultant. During onsite focus- group interviews with the school leadership team, participants shared examples of instances where students, parents, and other community stakeholders were given opportunities to weigh- in on proposed policies, such as the school's reopening plan and changes to its student and family handbooks.

School's Response: No response needed.

Supporting Documentation: N/A.



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BM 6 - Indicator F: The board engages in ongoing professional development.

Indicator F: The board engages in ongoing professional development. Brooklyn Lab’s renewal application discusses the school’s ongoing contractual relationship with Education Board Partners (EBP), a “national nonprofit dedicated to strengthening nonprofit boards with decades of experience” to serve the board in a “thought partnership” and coaching capacity. During the onsite focus-group interview with members of the board, participants shared that EBP’s direction has impacted their evaluation system for the ED, their board calendar and plan, and draft performance goals in pursuit of “state of the art self-governance.” After the renewal site visit, the board supplied additional documentation to the CSO, including EBP’s assessment results and the annual plan dashboard they created for Brooklyn Lab schools.

School’s Response: This response is correct, however, it contradicts what is stated in indicator D, for which we previously offered a factual correction. Please apply this evidence to indicator D.

Supporting Documentation: No response needed.



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BM 6 - Indicator G: The board demonstrates full awareness of its governance role, its legal obligations to the school and stakeholders, and requirements of the school's charter.

BM 6 - Indicator G: The board demonstrates mixed awareness of its governance role, its legal obligations to the school and stakeholders, and requirements of the school's charter. As described above in indicators d and f, the Brooklyn Lab board continues to secure external legal expertise to advise it on legal obligations, such as avoiding or mitigating the potential conflict of interest posed by Brooklyn Lab's ongoing relationship with InnovateEDU. However, as set forth in Benchmark 10, below, the board has failed to submit required documents and obtain approval for all members. In addition, the board's oversight has not always ensured that school management complies with all the legal and administrative requirements of its charter agreement.

School's response: The Board has a strong awareness of its governance role, its legal obligations to the school and stakeholders, and requirements of the school's charter and has worked directly with school leadership to establish and enhance robust oversight systems and processes to operationalize these responsibilities. For example, the Charter Agreement Action Plan allows the Board to track the implementation of its obligations and requirements pursuant to the charter agreements, the Board's Charter Renewal Application Work Plan provides an opportunity to review and provide oversight of the policies, attachments, and benchmarks, and the Board's Site Visit Report Action Plan provides a regular opportunity for the Board to engage with management regarding the school's obligations under the Charter. The Board met with the BLCS charter liaison on a weekly basis during the Spring and early Summer of 2020 -- in order to review outstanding requirements and priorities. The Board carefully reviews all submissions to the Portal, including material revisions, non-material revisions, and responses to requests. The Board has 4-6 Committee working sessions, and a robust and serious board meeting, each month.

Additionally, this representation is inaccurate, and inconsistent with the Board's experience of its working relationship with the CSO. The volunteer Board has devoted thousands of hours of time -- both personally and on behalf of their firms -- to ensure competent stewardship and oversight of the school, while maintaining policies and implementing systems to ensure organizational viability and faithfulness to the terms of its charter and the Law.

Upon review of the school's comprehensive factual correction response to this draft renewal report, which includes substantial records of communication demonstrating robust efforts and systems to achieve compliance, Brooklyn Lab hopes that the statement "**In addition, the board's oversight has not always ensured that school management complies with all the legal and administrative requirements of its charter agreement**" is removed from this benchmark indicator and the rating for Benchmark 6 is changed to a "meets".

Supporting Documentation: N/A



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BM 6 - Indicator H: The board is familiar with NYSED Charter School Performance Framework standards and has a plan to ensure that the school meets these standards.

BM 6 - Indicator h: The board is familiar with NYSED Charter School Performance Framework standards and has a plan to ensure that the school meets these standards. Board meeting minutes, the board's annual plan dashboard, and participant responses during the onsite focus group interview with members of the board generally demonstrated a familiarity with the CSO's performance expectations. For example, interviewed trustees expressed that the new evaluation protocol for the executive director integrates goal setting in each of the ten performance framework areas.

School's response: No response needed

Supporting Documentation: N/A



BM10 Legal Compliance - Responses to Factual Inaccuracies

Indicator A: The school has compiled a record of substantial compliance with applicable State and federal laws and regulations and the provisions of its charter including, but not limited to: those related to student admissions and enrollment; FOIL and Open Meetings Law; protecting the rights of students and employees; addressing complaints; financial management and oversight; governance and reporting; and health, safety, civil rights, and student assessment requirements. The inaccuracy of the specific examples, demonstrated by the substantial supporting documentation provided below, leads the School to request that a rating of “Approaches” be considered.

BM 10 - Indicator A #2: CSO records demonstrate that over the course of this charter term, Brooklyn Lab leadership has regularly submitted late the required financial oversight materials.

School’s Response: The Chief Financial Officer provided feedback to CSO that a CSO stipulated and requested a process of third-party review and coordination was the source of these delays. In effect, CSO requested to work with CSBM and the School to pre-review submissions. The school consented. But, observes that the late submissions occurred when the school was waiting for CSO to greenlight final submissions.

BM 10 - Indicator A #3: In May 2019, Genuine Foods contacted the CSO regarding Brooklyn Lab's late payment, and the school did not respond to the CSO’s follow-up.

School’s Response: This finding is factually inaccurate and should be omitted in full from the report. In coordination with NYSED’s Child Nutrition (CN), and in order to secure a vendor with greater reverence for compliance with CN standards, the School conducted a CN-advised RFP process and selected a vendor other than Genuine Foods (GF). This approach was overseen by CN, the Board, and counsel. GF complained to the CSO after it opted to not respond to the RFP and lost the contract pursuant to the review conducted against the CN-provided RFP criteria. The School acted as a good steward of public funds, as it negotiated and finalized a separation from GF with urgency and integrity. The result of the process was enhanced compliance and fulfillment of the Board’s fiduciary responsibilities. When it reached out to NYSED, GF was effectively requesting that SED intervene inappropriately in that negotiation in order to advantage the private operator and adversely impact a public school fulfilling its fiduciary obligation. The contemporaneous messages from CSO staff suggest that this dynamic was understood and the school handled this matter timely and appropriately.

Supporting Documentation:

- Email correspondence between [REDACTED], Eric Tucker and Mickey Revenaugh [here](#).
- Follow up correspondence with Genuine Foods available [here](#).

On May 2, 2019, [REDACTED] reached out to Eric Tucker and Mickey Revenaugh via email. She wrote, “[REDACTED] received a voice mail from Jennifer Calloway from Genuine Foods. She stated that the school is 60 days late in paying for their foodservice and owes \$70,000. She said that no one from the school has been responding to their outreach. Could you or someone from the school please reach out to her. Her contact number is 202-725-5432. Please let me know by next Wednesday, May 8th your plan to resolve this. Thanks Eric. Much appreciated.”



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On May 2, 2019, Eric Tucker wrote back to [REDACTED] and cced [REDACTED] and [REDACTED] [REDACTED]. He wrote, “[REDACTED]: Thanks for reaching out. We will absolutely reach out to them. We’ve been in touch four times today. Under guidance from counsel and with direction from Child Nutrition, the Board and management are following the path laid out by Child Nutrition:

1. Engage a temporary, interim provider.
2. Release an RFP and secure responses (GF did not respond to the RFP).
3. Review the RFP with a consultant against the criteria of Child Nutrition.
4. Select a winner, and notify all parties of the decision, consistent with the guidelines for Children Nutrition.
5. Move forward with the selected vendor (in this case, Revolution Foods).

We have paid and will pay [GF] for all services rendered. We have not consumed any GF food since January. But, we will pay them.

In sum, this is a contract dispute. We are working hard to coordinate between counsel and Child Nutrition. We have hired School Food and Wellness Group to support our efforts to coordinate on contracting and claim submission across different facilities. Genuine Foods has presented a considerable challenge with us since August. We regret that they continue to tax your time. And, we are happy to provide whatever updates on this process, at whatever increments, that NYSED would like.”

On May 2, 2019, [REDACTED] wrote back to this chain. Her email read: “Eric, Many thanks for the update. Best, [REDACTED]”

On May 6, 2019, Eric Tucker continued this chain, which included [REDACTED], [REDACTED], and [REDACTED] [REDACTED]. His email read: “[REDACTED]: You requested an update by next Wednesday, May 8th regarding the School's plan to resolve this. As we've conveyed, over the last several months, we have been following the process outlined by CN with regard to putting in place an emergency, interim vendor and then completing an RFP process.

We had been in communication with GF in the days leading up to (and the days immediately after) their outreach to CSO regarding their lack of response to the RFP, the granting of the contract to another vendor, and the need to finalize what have been several months long negotiations around the terms of GF walking away.

Steve (our CFO) and the CEO of GF have an agreement in principle on the terms of the separation agreement, and the organizations are working with counsel on both sides to finalize clauses.

As you know, we take our obligations as stewards of public funds seriously. And, we take our contractual obligations seriously. We understand that GF would prefer the terms of separation that are most advantageous to their firm.

We believe we are close to finalizing the resolution of this business dispute. We'll let you know when it is resolved.”



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On May 17, 2019 the Board Chair wrote to [REDACTED] and cced [REDACTED]. That email read, “In light of recent correspondence on this issue, I wanted to let you know that today Brooklyn Laboratory Charter School executed an agreement with Genuine Foods (GF) that terminated the food service that GF had been providing to Brooklyn Lab’s two school locations. As part of this agreement, Brooklyn Lab paid GF the full amount of past invoices, as well as a settlement of \$10,000 for the early termination. Included in this settlement agreement was a term that the two parties would not disparage each other, as well as a term whereby the parties agreed to keep the terms of the agreement confidential except for accounting, tax, and legal advisors, authorizers, and regulatory authorities. Please let me know if you have questions, or if you would like a copy of the full settlement agreement.”

On May 17, 2019, [REDACTED] wrote back and cced [REDACTED] and [REDACTED]. The email read, “Thank you for letting us know Mickey. We really appreciate it. If we have any questions we will be sure to reach out. Have a great weekend.”

On May 17, 2019, [REDACTED] followed up and cced [REDACTED] and [REDACTED]. The email read, “Mickey, I echo David’s response. Have a great weekend! [REDACTED].”

Based on the School’s record of this entire exchange, Brooklyn Lab and CSO staff considered this entire matter to be fully and legally dispensed with.

BM 10 - Indicator A #4: In April 2019, NYSED’s Office of ESSA-Funded Programs contacted Brooklyn Lab five times in an attempt to have the school submit the required 2018-2019 Title I Supplement Not Supplant Survey.

School’s Response: Not one of the five efforts at contact were received, so it is factually inaccurate to characterize the School’s inability to respond as they were “ ignored.” This matter relates to the 2018-2019 Title I Supplement Not Supplant Survey, which covers a prior period and was submitted under the previous Charter Term. The School sent this survey, but it was not processed by NYSED. NYSED communicated to the school that because of an email address error by NYSED, the School has no record of receiving a single one of the five attempted emails from NYSED’s Office of ESSA-Funded Programs.

In April 2019, months after a significant (over \$6.5MM) water damage event that meant a portion of the School was operating out of temporary facilities as it completed environmental remediation, the School communicated to [REDACTED] that the School has completed the federally mandated 2018-2019 Title I Supplement Not Supplant Survey. We further communicated that the School had subsequently worked to ensure that the NYSED Office of ESSA-Funded Programs has the correct spelling for email address to reach the School.

While this delay was not the result of our error, the School apologized and took responsibility for submitting an additional survey draft, and for NYSED having the proper email address going forward. The School shared with [REDACTED] that during the time period in question, the School experienced logistical challenges resulting from the water damage repairs and environmental remediation, and the death of a founding team member. The Board has not been negligent in its oversight.

The School further notes that during the several months period in question, NYSED had no fewer than three full-time staff members onsite making hundreds of documentation requests and coordinating follow up on a daily



basis. The School spent no less than 1,000 staff hours responding directly to NYSED requests for documents in the midst of recovery from the flood, and from temporary facilities. Not once during this time was this issue mentioned, nor any follow up for a different email address or a phone call once the original and repeated attempts bounced.

Supporting Documentation: The School's contemporaneous notes from the conversation with [REDACTED] read, "The School has completed the federally mandated 2018-2019 Title I Supplement Not Supplant Survey. The School has ensured that the NYSED Office of ESSA-Funded Programs has the correct email address to reach the School. The School apologizes and takes responsibility for this delay."

BM 10 - Indicator A #5: In December 2019, Brooklyn Lab submitted incorrect information to the NYCDOE regarding facilities enrollment and where students were being educated.

School's Response: The information submitted to NYCDOE was accurate, and responded to a question related to the allocation of functional expenses for facilities usage. The NYCDOE relied on the information provided, once it was reviewed by its legal and accounting experts, to make a determination regarding Rental Assistance eligibility. These experts concurred with the School's legal, accounting, and facilities advisors and the Board's oversight regarding the accuracy and the completeness of the submitted documentation. The Rental Assistance received by the School pursuant to the accurate documentation submitted was audited by a third-party, well-regarded professional audit firm. This documentation also had a material impact on the financial management of the School, which the CSO staff determined "meets" expectations.

The confusion regarding an apparent discrepancy between NYSED and NYCDOE submitted documentation stemmed from the fact that the two agencies asked for different information for different purposes. The School timely and fully responded to NYSED's request for follow up information. The original information may have been focused on responding to a specific question, but it was neither incorrect nor inaccurate.

The CSO's finding / statement is inaccurate, and should either be omitted or re-written to state:

In the winter of 2019-20, Brooklyn Lab submitted documentation in response to a NYCDOE request for clarification regarding the School's allocation of functional expenses related to facilities usage. NYSED CSO subsequently reached out to both parties to seek further clarity regarding the programmatic (facilities siting) plan submitted to NYSED and the allocation of functional expenses submitted to NYCDOE. The School submitted the requested documentation, which outlined the relationship between the previously submitted allocation of functional expenses and programmatic plan. The CSO staff acknowledged receipt, stating, "Many thanks for the information. We will review it and get back to you." NYCDOE team members with expertise in law and accounting extensively reviewed the submitted documentation and determined that it was clear, consistent, and sufficient to serve as the justification for the disbursement of public Rental Assistance funds.

Or,

In the winter of 2019-20, Brooklyn Lab submitted documentation in response to NYCDOE and NYSED requests for clarification regarding the School's allocation of functional expenses related to facilities usage. The clarifications were relied upon for the SY19-20 Rental Assistance determinations of the NYCDOE, and were determined to be accurate upon clarification and careful review.



BROOKLYN LAB CHARTER SCHOOL

Supporting Documentation: Judge Lucy Billings of the New York State Supreme Court, Civil Branch issued a [Decision and Order against the New York City Department of Education \(including process management by Jennifer Nagourney and \[REDACTED\]\) for a judgment pursuant to Article 78 of the Civil Practice Law and Rules.](#) Article 78 of the CPLR establishes the procedure for challenging the determinations of administrative agencies or public bodies. In this instance, it represented the School's challenge to a NYCDOE government decision that was made in violation of lawful procedure, was affected by an error of law, was ["arbitrary and capricious," or constituted an abuse of discretion.](#) The Judge's order came after a court hearing and review and consideration of the evidence related to the School's claim that the DOE's consideration and review of the Rental Assistance documentation was arbitrary and capricious. The DOE sought to settle the Article 78 claim subsequent to this order. [REDACTED] and Jennifer Nagourney continued to work together when [REDACTED] joined the Charter Schools Office team at NYSED. In sum, a New York State Supreme Court Justice reviewed an earlier episode in the School's submission of accurate and full documentation related to Rental Assistance calculation, and ruled against the NYCDOE's Article 78 defense. The NYCDOE and NYSED have made ungrounded accusations related to the School's documentation related to Rental Assistance - including the allegation made in this report. In response, the School has appropriately submitted accurate documentation that has been reviewed by experts in the relevant aspects of law, accounting, school facilities usage, and Board governance prior to submitting any documentation. The documentation submitted by the School has consistently been determined to be accurate and correct by the NYCDOE's professional staff, prior to its determination of eligibility.

On January 7, 2020, [REDACTED] wrote to Mickey Revenaugh and Eric Tucker, and cced Jennifer Nagourney (NYC DOE), [REDACTED], [REDACTED], and [REDACTED]. She wrote, "On December 22, 2019 Brooklyn Lab sent the New York City Department of Education a letter regarding student enrollment and facility use (see attached). The information provided in this letter is not in agreement with the school's December 6, 2019 email to the New York State Education Department (NYSED) regarding the same in consideration of a possible revision request. Given the seeming discrepancies between these two documents, we are requesting an explanation of how each building is being used in the 2019-2020 school year, in detail, and what percentage of student time is being spent in each building. Your response should include the number of students, grade, which charter school, days of the week and times and should be put in the following template, one for each of the charter schools operated by the Education Corporation: [tables in original]. If the school needs to amend the facilities plan sent to NYSED on 12/6/2019 for our consideration the deadline to do so is January 13, 2020. In addition, in the future during this academic year, if the schools should change the information provided above, amend the chart and re-submit it to the Charter School Office.

On January 7, 2020, [REDACTED] followed up with an email. It read: "Eric, In the table Brooklyn Lab sent to NYSED on 12/6/19 the only facility mentioned being in use for either school was 77 Sands Street. In a table sent by Brooklyn Lab to the NYC DOE in its letter dated 12/22/19 all three locations, Jay, Chapel, and Sands Streets are listed as "being approved for serving students." In your email below, you state that "[w]e do not see the seeming discrepancy between...the two documents." I am sorry to see that the school does not see where the discrepancy is, however I am sure we can all understand the confusion since the tables sent to NYSED only mention one building while the tables sent to the NYC DOE mention three buildings. To ensure that NYSED is aware of where Brooklyn Lab and Edmund Gordon students are being educated, and provide approval for such a plan if necessary, we look forward to reviewing the table that Brooklyn Lab will provide to NYSED no later than January 13, 2020 as stated below."



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On January 8, 2020, Eric Tucker wrote to [REDACTED] and cced, [REDACTED], Mickey Revenaugh, Jennifer Nagourney, [REDACTED], [REDACTED], and Susan Briggs. His email read, “[REDACTED]: I appreciate your clarification. We will work to complete a draft response to the table, as requested. The substance of our responses to [REDACTED] and your questions will be contained in that document. In order to be respectful of the time [REDACTED] and you took to prepare the requested table and related questions, and the seriousness of your concerns, I offer the following brief clarification.

Response to request for programmatic plan. My understanding is that NYSED requested LAB to complete a table identifying the primary classroom facility assigned to each grade, for each school, for the 19-20, 20-21, 21-22, and 22-23 school years; this information is reflected in the tables provided to NYSED on December 6, 2019. Additionally, in the same December 6, 2019 document, in response to [REDACTED] question 5 (second bullet), we explained the current usage of 240 Jay (how students currently are being served at Jay Street.) Finally, in response to [REDACTED] question 2 (“What were the space plans for 25 Chapel Street and Jay Street should the proposal be denied?”), we explained how students currently are being served at 25 Chapel Street -- in order to ensure that NYSED had a complete picture of current usage. The school's response spoke to the siting plan, and accurately reflected programmatic usage to NYSED. We will provide the information in the revised format requested.

Response to request for allocation of functional expenses. In contrast, my understanding is that NYCDOE requested LAB to provide the organization's working draft allocation of the respective lease expenses incurred across the two charters. NYCDOE specified that the School should complete a specified table focused on the allocation of actual rental cost. This year, the School's allocation of actual rental cost between the charters has been time-consuming for the finance team and finance committee to refine, given the extenuating circumstances the School has discussed with NYSED and NYCDOE. It is this allocation of functional expenses that is reflected in the tables provided to NYCDOE on December 22, 2019.”

On January 13, 2022, Eric Tucker circulated an email to the same group, with an attached memo titled, “[January 13, 2020 Responses to NYSED's January 7, 2020 Questions](#).” That memo clarified the relationship between the response to request for the facilities programmatic plan and the response to request for allocation of functional expenses.

On January 14, 2022, [REDACTED] wrote in response, “Hi Eric, Many thanks for the information. We will review it and get back to you. Best, [REDACTED].”

On January 17, 2020, Jennifer Nagourney emailed:

“Eric, thank you again for sending this information.

The DOE has reviewed the submission, and has determined that the uses stated for 25 Chapel Street in the January 13, 2020 submission to SED are not eligible for lease assistance. It is the DOE's position that lease assistance is to be used for buildings where primary instruction is provided, and does not extend to supplemental programs such as Summer Break Academy, Saturday Academy, Open Houses, and other programs outlined in the description provided by Brooklyn Lab.

With this conclusion, the DOE has used the # of students in the remaining buildings as stated in the January 13, 2020 submission to recalculate each DBN's rental cost totals and overall lease assistance projections for 2019-20:



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...

Please let me know if you have any questions about the calculation. Jen”

On February 25, 2020, Jennifer followed up with an email to the same group, sharing that the documentation had undergone further review. She wrote, “I am writing to follow up on my email from January 17 regarding lease assistance payments to 84K911 - Edmund W. Gordon Brooklyn Laboratory Charter School. The DOE has decided to continue its review of whether Brooklyn Lab’s stated uses for 25 Chapel Street are eligible for lease assistance. While the DOE is reviewing information, including the additional information that Brooklyn Lab recently provided to SED, payments will be continued to the school as calculated during Payments 1-3. Should the DOE determine that 25 Chapel Street is not eligible, either in whole or in part, for lease assistance, any necessary adjustments will be made in future payment cycles, including reconciliation. Yours sincerely, Jen”

The DOE subsequently determined that the documentation the School submitted regarding allocated facilities expenses was accurate and reimbursable.

Both the January 17, 2020 correspondence and the February 25, 2020 correspondence acknowledge the accuracy and validity of the underlying documentation. The determination was made of whether the expenses incurred qualified as Actual Rental Expenses -- not whether the program plan and functional allocation were accurate and consistent. Even if the January 17, 2020 initial response stood after further review from NYCDOE legal and accounting experts -- it would have spoken merely to the NYCDOE’s interpretation of Actual Rental Cost, not to the accuracy of the documentation.

BM 10 - Indicator A #6: In the 2020-2021 and 2020-2021 [sic] academic years the school failed to submit valid fire inspection reports and certificates of occupancy for all sites as required.

School’s Response: The School has consistently requested, received, and timely passed all required fire inspections -- and submitted them to NYSED immediately upon receipt from FDNY. The School has further ensured that the records of the inspections were submitted in a timely fashion to the CSO. At each inspection, the School has received the highest possible review. At no point has FDNY expressed concern, formally or informally, regarding the operation of the current space. Inspectors have been consistently appreciative that the School is fastidious about safety and fire protection. We have modernized fire safety in the building overall. For example, during this Charter Term, the Board’s Compliance Subcommittee proactively commissioned a team of qualified third-party inspectors to conduct an additional series of inspections related to a Fire Safety Checklist -- which affirmed the safety of the building operations relative to the FDNY standards. Nothing that the School has done has made any space less safe -- to the contrary, the steps we have taken have enhanced safety and fire protection. We have gone to extraordinary lengths to modernize the facilities in a manner that makes the facility even more safe and has brought it into compliance with the current code requirements. The School fulfilled assurances that it would remain in compliance. New fire inspections were completed timely, upon completion of 2018 summer renovations and in support of safe occupancy. The School has established with evidence that it is in full compliance with Section 1.5 of the Charter Agreement. The School has provided appropriate documentation to address NYSED’s concerns in this domain.

The school has secured and submitted compliant Certificates of Occupancy for all classroom facilities. The Department of Buildings has determined that each BLCS property is safe and appropriate to occupy as a school. However, there are outstanding issues in other portions of the building requiring final approval. The Temporary



Certificates of Occupancy -- or TCOs -- issued indicate that the property is safe for occupancy. The Board agrees that the School must obtain a final Certificate of Occupancy. However, the School has obtained and maintained TCOs, which clearly permit the operation and legal use of the school's private facilities. The School always operated with the required valid certificates and, after review, NYSED CSO allowed us to open based on these items. The construction work for the School complies with all applicable laws, the necessary paperwork has been completed, any fees owed have been paid, and the School has submitted all approvals from other City agencies. All building systems have been inspected and are in good working order. We would urge the Department to soften this and indicate that we have valid TCO's, which allow for instructional use in the City of New York.

During this Charter Term, the Board commissioned a review of all facilities related compliance matters -- completed by Education Board Partners. Education Board Partners interviewed over a dozen facilities experts -- including [REDACTED] from the Charter Schools Office -- and synthesized Board oversight obligations related to facilities. The Report concludes that the Board's oversight of facilities safety and compliance is exemplary and meets NYSED Performance Framework standards.

The following responses were shared to SED on Wednesday, January 5, 2022:

2. Updated fire inspection certificates.

All FDNY inspections were timely requested. The school formally requested Fire Inspection Reports for the following properties from the New York City Fire Department (FDNY) with more than sufficient time to receive certificates prior to the renewal application deadline:

77 Sands Street Floors 2-5
Brooklyn, NY 11201
Date of Inspection: August 11, 2021

240 Jay Street
Brooklyn, NY 11201
Date of Inspection: August 12, 2021

Inspections were conducted consistent with FDNY policies and procedures outside of the school's control. However, because the FDNY's previous annual inspections took place in August of 2020, the New York City Fire Department stated that it would not allow for the inspections to be scheduled to take place before the above mentioned mid-August 2021 dates. FDNY completed the inspections and passed the school at the above stated dates in August. While FDNY communicated that the school passed the inspections in August 2021, the school did not receive the attached documentation that we passed the inspection until November 30, 2021. The school provided evidence to CSO timely of our compliance with the FDNY inspections. Because these items in the Annual Report portal were locked in August, and the protocol provided for updates to NYSED CSO had previously been sending emails, the school promptly provided CSO the FDNY documentation that "the inspection did not reveal any violations."

At that time, the school wrote, "Please let us know if there is another format that you'd like these to be submitted in." The school at all times complied with our health and safety requirements to request, timely complete, and provide NYSED with documentation of our Fire Inspections.



3. Temporary Certificates of Occupancy (TCOs)

- The school is required to maintain valid certificates of occupancy and health and safety approvals, including a fire inspection report, for the facilities occupied.
- On an ongoing basis, the school maintains valid Certificates of Occupancy (COs), Temporary Certificates of Occupancy (TCOs), health and safety approvals, and fire inspections, using an internally developed inspection calendar and monthly punch list.
- For both charters, the Board ensures that its facilities meet all applicable requirements through ongoing work with a team of internal and external experts and the annual development of facilities oversight plans.

BLCS works with experts to ensure that all facilities meet state and federal requirements, receive regular safety updates and inspections, and offer a learning environment that supports all of our students. Over the charter term, the Board and management team have gained significant experience with operating charter school facilities and have assembled a team of advisors upon whom they rely, consisting of architects, engineers, and safety experts. In particular, our architect, AKA Studios, has extensive experience with requirements for COs, programmatic accessibility, and safety and security. AKA coordinates with relevant agencies on inspections, filings, and improvements to ensure that our facilities comply with all applicable laws and regulations, and NYSED is provided with updated TCOs or COs, as required.

BLCS has had strong facilities oversight throughout the COVID-19 pandemic. Public School [Facilities Planning in the Era of COVID-19 Guide](#): The Guide outlines our lessons from our journey to safeguard our school community's health, so other schools can learn from our process, planning, and approach. BLCS held more than 150 meetings (including a set of intensive working sessions, or charrettes in design parlance) to gather insight from industry experts, government officials, architects, urban designers, educators, staff members, parents, scholars, and many others. The Fall 2021 update has been critical to our response to the Delta and Omicron variants.

BM 10 - Indicator A #7: The school never submitted a material revision request to the CSO for approval to educate students in the same grade at more than one site, and this would not have been granted as this is a violation of Education Law §2853(1)(b-1). The school was formally notified of this violation in 2017; but has not achieved legal compliance to date.

School's Response: Since the initial Notice, the School has fully complied with the expectations laid out in Education Law §2853(1)(b-1). As CSO is aware, in 2015-16, after consultation with several law firms, the School's legal analysis was that the Jay Street and Chapel Street buildings, being across the street from one another, qualified as a single site (as do numerous other charter schools in New York). In 2016-17, the Board moved ahead with this siting arrangement because we believed it was both compliant to the law and optimal for serving our students academically, particularly our students whose IEPs required specialized services. When it emerged that the CSO had a different legal interpretation, the Board formulated a plan to address the issue in March 2017. The plan received formal approval from CSO. Since March 2017, the School has ensured that each scholar is only assigned to one school building for core instruction. Scholars at times (and decreasingly) may utilize another building for a specific



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purpose (i.e., physical education, testing, or afterschool program) but this does not impact their assigned school placement. All representations from CSO until this report have confirmed that this approach represents legal compliance. Even prior to 2017, when the School changed its approach, the school urged the Department to note that this was a difference of legal interpretation. Further, the school has been fully compliant with Education Law §215 and Commissioner's Regulation 155.17(f), which requires immediate notification to the Commissioner when the emergency plan or building-level school safety plan is activated and results in the closure of a school building. We have operated within our obligations to report emergency school closures and subsequent building re-openings using the Report of School Closure and Report of School Re-opening available in the SED Monitoring application (SEDMON) in the NYSED Business Portal.

Supporting Documentation: Brooklyn Laboratory Charter Schools takes its obligations seriously to be in compliance with Education Law §2853(1)(b-1) which states: "An education corporation operating a charter school shall be authorized to operate more than one school or house any grade at more than one site, provided that a charter must be issued for each such additional school or site in accordance with the requirements for the issuance of a charter pursuant to this article and that each such additional school or site shall count as a charter issued pursuant to subdivision nine of section twenty eight hundred fifty-two of this article; and provided further that: (A) a charter school may operate in more than one building at a single site; and (B) a charter school which provides instruction to its students at different locations for a portion of their school day shall be deemed to be operating at a single site." NYSED CSO has received annual facilities plans since 2017, but never indicated that the plans had not achieved legal compliance. Since March 2017, the School has ensured that each scholar is only assigned to one school building for core instruction and that the scholar's assignment is identical to other scholars from that grade and charter. Going into 2019, all scholars and all grades for both charters were primarily assigned to 77 Sands, as the Transportation location and the primary classroom building. Scholars were educated in the building to which they are assigned, except when specific programmatic elements require particular facilities (such as the gym, certain acoustic settings, performing arts space), or when particular personnel (such as learning disabilities specialists, occupational therapists, etc.) are only available in one of the buildings. Each of the facilities plans are designed to fully address compliance with facilities expectations and law while also meeting our commitment to our scholars, many of whom have special needs, disabilities or are homeless. There are also only specific facilities for homeless scholars to do their laundry, or for high school students who need to accelerate PE credit earning to have the space to do so. We believe these academic successes have been, in large part, due to our ability to flexibly meet the needs of learners that face significant challenges both in and outside of the classroom. Our facilities obviously play a critical role in producing these successes.

Scholars at times (and decreasingly) may utilize another building for a specific purpose (i.e., physical education, testing, or afterschool program) but this does not impact their assigned school placement. All representations from CSO until this report have confirmed that this approach represents legal compliance. The school has provided NYSED with hundreds of pages of facilities planning and town hall feedback sessions related to facilities in the era of COVID-19:

- [Brooklyn LAB Staff Town Hall, July 20, 2020](#)
- [Brooklyn LAB Scholar and Family Reopening Town Hall, July 28, 2020](#)
- [Brooklyn LAB Scholar and Family Reopening Town Hall, August 13, 2020](#)
- [Brooklyn LAB Staff Town Hall, August 3, 2020](#)
- [Brooklyn LAB Master Facilities Binder, August 14, 2020](#)
- [Brooklyn LAB Facilities Planning Guide in the Era of COVID-19, Fall of 2020 and Fall of 2021](#)



Across each of the facilities plans submitted, and the hundreds of pages of additional supporting documentation submitted contemporaneously to NYSED, there is zero evidence supporting the notion that a student from a single grade at a single charter attends anything other than school at a single, consolidated primary classroom building. The school repeatedly invited NYSED CSO to the school to confirm our full compliance with Education Law §2853(1)(b-1). The school has made significant programmatic and facilities adjustments in order to comply with Education Law §2853(1)(b-1). There have not been even minor variances from Education Law §2853(1)(b-1) since our 2017 plan.

BM 10 - Indicator A #8: The school's 2020-2021 Annual Report failed to include complete financial disclosure forms for four trustees. The board has failed to remove trustees who have not submitted complete disclosure forms as required by the Charter.

School's Response: The school's timely submitted 2020-2021 Annual Report was uploaded during the global COVID-19 pandemic. Although the School operated in-person five days a week starting in August of 2020, the August 2021 submission occurred during a period when the Board's fulfillment of its open meeting responsibilities were modified by New York State Executive Orders allowing for virtual meetings, in accordance with restrictions on in-person gatherings to protect the public health. Although the original copies of the Board's disclosure forms were completed accurately and timely, due to "stay at home" orders, home office scanners and phones had to be used to create digital copies of the financial disclosure forms for certain Trustees. The preparation of these documents was completed pursuant to accommodated work expectations protected by the Americans with Disabilities Act (ADA) and New York State employee protections related to COVID 19. The digital scans of the forms were then uploaded as a portion of the Annual Report and submitted prior to the deadline on August 1, 2021. Almost five months later, on December 29, 2021, the NYSED Charter School's Office requested re-submissions of the forms of four Trustees due to the legibility of the scans. On December 30, 2021, in response to the School's request that the portal be unlocked to allow the Disclosure Forms to be resubmitted. Once CSO staff unlocked the portal, the School immediately uploaded and submitted the re-scanned documentation, on New Year's Eve. The School received no notice related to the legibility of the scanned digital version of the Forms until December 29, and did not have access to the portal until hours before the matter was corrected.

Supporting Documentation: The correspondence surrounding this matter, and the resubmission, serve as evidence.

BM 10 - Indicator A #9: The school has also failed to post appropriate District-Wide School Safety Plan, FOIL Policy, and FOIL Subject Matter List on its website as required.

School's Response: As previously communicated, on January 5, 2022, we shared that in order to better fulfill the school's Benchmark 3 obligations, we overhauled the website for BLCS and EWGBLCS last fall. The goal of this overhaul was to ensure the school uses multiple methods of family engagement for all communication with all parents. However, in the launch of the new site, several links were altered. The links in the portal were then updated.

On January 5, 2022, we also provided the following update to SED regarding the District-Wide School Safety Plan:

5. District Safety Plan

- a. The District Safety Plan is posted on our website. During the website overhaul, the link to the page



on our website changed. This link has been updated in the portal. In addition, we have reviewed our posted safety plan to ensure that it does not publically provide information that would aid potential threats. Our plan aims to:

- i. To create a guiding document that informs school stakeholders of relevant procedures intended to keep scholars safe;
- ii. To outline our procedures for responding to medical emergencies and acts of violence or criminal behavior that could affect the health and safety of scholars, including emergency parent notification procedures;
- iii. To be aligned with the Schools Against Violence in Education (SAVE) Act, which contains information concerning the best school violence prevention and intervention strategies in the nation, pursuant to Commissioner’s Regulation 155.17 and under the direction of the Brooklyn Laboratory Charter Schools Board of Trustees.
- iv. Each year, the school prepares and approves a school safety plan for the district and each facility, outlining procedures to control access to the building. The Safety Plan for each facility maps scholar arrival and dismissal procedures, absence notifications, school visitor procedures, ID procedures, security guard expectations, and training drills and exercises. It tracks chain of communication and procedures for events including, but not limited to, fire, intruder, hostage/kidnapping, terrorist act, natural/weather, gas leaks, bomb threats, medical emergency, crime, and emergency egress.

BM 10 - Indicator A #10: The school altered its KDE and organization chart without submitting a revision to the CSO.

School’s Response: The school submitted revisions to the KDE’s as the attachments to several material revisions which were subsequently reviewed by CSO staff, redlined, and approved by the Board of Regents. The October 2021 revision guidelines and fall 2021 conversations with our new liaison made it clear how SED would like to approach this going forward. The school will adhere to the new guidelines. It is factually accurate to state that the school submitted revisions and was notified years later that the format of the submission should be adjusted.

Supporting Documentation:

BM 10 - Indicator B: The school has undertaken appropriate corrective action when required, and/or as requested by the Board of Regents and/or the NYSED Charter School Office and has implemented necessary safeguards to maintain compliance with all legal requirements.

BM 10 - Indicator B #1: The school is consistently under-enrolled and only recently and upon request provided the CSO with an updated fingerprint and clearance policy for school staff.

School’s Response: The school has not been consistently under-enrolled according to NYSED’s own charter vs. actual enrollment report, as outlined below.

Supporting Documentation: On December 13, 2022, [REDACTED] wrote, “Hi Eric, One more question—my records indicate that at one point the CSO requested an updated fingerprint clearance policy and procedures documents for your new staff onboarding, for both Brooklyn Lab and EWG. I don’t have record that this was received. Can you please send that to us so that we can review and make sure that it is in order? Thank you, [REDACTED]”.



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Eric Tucker and Sheryl Gomez responded, “[REDACTED]”: Thanks for writing. It's been a busy morning and early afternoon with COVID-19 contact tracing at 77 Sands. The good news is it seems as though the individual with the positive test did not have close contact with any of the dozen-plus folks with which they interacted Monday. That's a relief. With regard to fingerprinting procedures, our records show that the school connected and [REDACTED] and [REDACTED] in September of 2019. We discussed that all charter school employees, employees of the NYCDOE working in the charter school, and employees of contract service providers must all receive NYSED TEACH clearance prior to beginning employment in the school. We confirmed our understanding and commitment to fulfilling these requirements.

[REDACTED] helpfully suggested that additional information about the requirements can be found at the following websites:
<http://www.nysed.gov/educator-integrity/who-must-be-fingerprinted-charts>
<http://www.nysed.gov/educator-integrity/new-york-city-fingerprinting-school-employment>
<http://www.p12.nysed.gov/psc/aboutcharterschools/lawsandregs/aprilmemo.pdf>
<http://www.nysed.gov/educator-integrity/law-and-regulations>

She asked us to let CSO or OSPRA know if we had any questions.

The school affirmed that we understand the policies and requirements outlined by NYSED, and that we will fulfill all of our obligations as outlined by the Law, OSPRA, and CSO.

The [attached staff-facing material](#) and process map outline our multi-step, comprehensive process for ensuring that all school employees have fingerprint clearance. It reflects our effort to translate the above linked SED policy, guidance and requirements into our procedures.

On December 8th, 2021, we received notice from [REDACTED] of the following: "The school must adopt a multi-step, comprehensive process to ensure that all school employees have fingerprint clearance prior to their start date at the school and submit it to CSO for review and approval."

Since receiving this, we have conducted extensive outreach to operations teams at multiple schools, multiple legal teams, and several relevant advisers to study whether there are multi-step, comprehensive processes or policies adopted that might reflect best practice for implementing the State's policies. The Board also has it on our list of items to reach out to our Liaison about this week.

Suffice it to say, we'd welcome your review and approval of the attached.

And, we are open to any guidance RE: what next steps are regarding fingerprinting. Best.” The school has not heard back from CSO on this matter.

The following response was further shared to SED on January 15, 2022: “The schools can confirm that BLCS and EWGBLCS adhere to the fingerprint- supported criminal background check through the mandatory process outlined on the Office of School Personnel Review and Accountability (OSPRA) website. We conduct audits of all employee TEACH records on a regular and recurring basis. We understand that this type of audit is an ongoing obligation. The schools have worked to ensure that individuals who have been denied clearance and/or terminated are promptly removed from the roster in TEACH. The safety of our school community is of utmost importance and we are committed to adhere to all legal fingerprinting requirements.



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As a merged entity (a consolidated education corporation), Brooklyn Laboratory Charter School (BLCS) and the Edmund W. Gordon Brooklyn Laboratory Charter School (EWGBLCS) were using one TEACH account for fingerprint clearances for our staff. Employees are employees of a single corporation, not each school entity. As BLCS is designated the parent entity by NYSED, for maintenance of fingerprinting clearance, an employer obligation was maintained within the parent entity account. The nature of the relationship between BLCS and EWGBLCS is clearly denoted in SED's own organizational system - SEDREF (See Exhibit A) as BLCS being the parent organization of EWGBLCS. This is consistent with our merger plan and documents submitted to NYSED in 2018. It is our understanding that this may have resulted in confusion regarding which staff members have been properly fingerprinted. Please note that prospective employees are not permitted to commence work without first clearing the fingerprinting process as dictated by requirements of Part 87 of the Regulations of the Commissioner of Education and the Safe Schools Against Violence in Education (SAVE) legislation (Chapter 180 of the Laws of 2001).

Based on our conversation on December 22nd 2021, EWGBLCS submitted a Designation of Authorized Representatives for the TEACH Online Services System to create a separate TEACH account for its teachers and personnel instead of using one TEACH account for all schools. The request submitted to NYSED has received no response.

We understand that the fingerprint clearances are not automatically transferable from one school to the other. Once the second account is provisioned, our team will work to reconsider and transfer data for each entity and employee if feasible by the system. For example, a member of the team who provides services (tutoring, instruction, operational or direct support) would need to be able to be linked to both entities simultaneously to comply with the NYSED Charter Office's interpretation of the current fingerprinting guidance. The schools will share the Action Plan for the migration of these two accounts once system limitations, if any, are known."

BM 10 - Indicator B #2: According to NYSED data, in SY 2020- 2021 two Brooklyn Lab teachers had a start date that preceded their fingerprint clearance date, one by 251 days.

School's Response: When CSO raised this review, we stated unequivocally that this conclusion does not match our records, or what our documentation reflects about the underlying reality. We stated that we had TEACH fingerprint clearance for the educator we believed the state was referring to which confirmed clearance prior to the start date. However, because InnovateEDU LAB core fellows first clear, and then are discharged at the end of an 11 month period, and then re-clear as school employee -- we believe there is an understandable reason that an individual would have multiple sets of fingerprint clearance.

On January 7, 2022, we emailed SED the following: On 1/5/22, the school submitted a memo titled, "Fingerprinting and Certification Questions". That memo offers a preliminary response to an email from CSO, which raised questions about employee fingerprinting and teacher certification. We have reviewed documentation related to our programmatic Action Plan and our results related to Teacher Certification. We are excited to share a sample of the activity, which we hope demonstrates the earnestness and effectiveness of our compliance with teacher certification regulations.

The following response was shared to SED on January 5, 2022: "We appreciate you taking the time to share that your recent review relative to our staff roster seemed to show a lack of fingerprint clearance at EWGBLCS and a



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high number of uncertified teachers at BLCS. These conclusions do not match our records, or what our documentation reflects about the underlying reality. We are committed to ensuring that NYSED has accurate data appropriately entered. Consistent with our phone conversation on December 22nd, the TEACH account of the merged education corporation (Brooklyn Laboratory Charter Schools) currently maintains fingerprint clearance and certification information across the two charter schools. This approach is longstanding and is consistent with the post-merger action items, and Brooklyn Laboratory Charter Schools designation as the parent organization of EWGBLCS. As discussed, we appreciate the guidance that NYSED now has a preference for the schools to have access to a second TEACH account. We have taken steps to obtain a second TEACH account but need action from NYSED in order to obtain it and have not received a response in 15 days since our inquiry. We are working diligently to express the urgency of this matter with NYSED. If there is any support CSO can provide to encourage NYSED responsiveness, it would be deeply appreciated.”

On Friday, January 7, 2022, [REDACTED] wrote back to Sheryl Gomez (and cc’ed Mickey Revenaugh and Eric Tucker). The email stated: “Good afternoon Sheryl, Thank you for sending this information. We are reviewing and will let you know if we have any questions and/or additional guidance. Have a good weekend, [REDACTED].” The School continues to believe that it has evidence that the staff member in question in fact cleared fingerprints prior to commencing work, and that the second set of fingerprints post-dated the point at which the individual in question transitioned from one role to another.

Supporting Documentation: The report referenced in the memo above is available [here](#).

BM 10 - Indicator B #3: Brooklyn Lab is still under a CAP for academic underperformance and enrollment deficiencies.

School’s Response: The school has submitted both Board oversight memos and regular updates regarding the (now-outdated) CAP. The CAPs were put in place for a one-year period prior to the COVID-19 pandemic for academic underperformance and enrollment deficiencies. The time horizons for those CAPs has lapsed. The Action Plan process of the authorizer is the current process in place. SED has never provided feedback on the CAPs in writing or discussed the documents, which are now no longer in place.

Given the performance outlined on Benchmark 2 and 3 of the CSO Report; and the academic data from the Spring of 2021 -- it’s unclear that the school is “still under a CAP for academic underperformance”. There is strong evidence submitted in the Benchmark 1 submission from fall of 2021 that academic performance is strong and improving. That evidence of strength has been entirely omitted in this report.

Supporting Documentation: [Renewal Application Benchmark 1: Student Performance October 29, 2021](#)



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BM 10 - Indicator C: The school has a plan to ensure that teachers are certified in accordance with applicable laws and regulations.

BM 10 - Indicator C #1: Based on current TEACH data, 28 or 70 percent of the school's teachers are uncertified, which prompts the CSO to issue a Notice of Deficiency with Request for a Corrective Action Plan (CAP).

School's Response: The school notes that CSO is aware that the school has supported more than 30 educators of color on the pathway to certification this year alone -- with marked success -- through partnerships with NYU and Relay Graduate School of Education. However no mention is made of these extraordinary efforts or results. Furthermore, the school is appropriately utilizing the waivers to which it is entitled, but those numbers seem absent from CSO's analysis.

Further, the school does not have visibility on the roster SED is using to calculate that "70 percent of the school's teachers are uncertified." Nor has the CSO issued a Notice of Deficiency to the school at this time. However, across 61 teachers based at Brooklyn Laboratory Charter Schools, 54 are either certified or utilizing a waiver. An additional seven (7) educators who are not currently certified or utilizing a waiver have submitted a complete application for certification to NYSED and are waiting for the materials to be reviewed and processed, or will be granted certification through the transmittal of the recommendation of their Graduation institution within a matter of weeks. In effect, the Consolidated Education Corporation anticipates operating 100% consistent with its obligations within weeks, and observes that absent NYSED processing delays, it is less than 10% out of compliance. The school further notes that policies and approaches that the Board of Regents and New York State Education Department have identified as having a disproportionate impact on early career educators of color have uniquely disadvantaged the Brooklyn Lab school community. CSO's own April 2022 renewal reports describes that it is "Noteworthy: Brooklyn Laboratory Charter School (Brooklyn Lab) aims to hire and retain personnel that reflect the school's student population and therefore prioritizes diverse staffing at the executive, administrative, and classroom levels. For the 2021-2022 school year (SY), Brooklyn Lab reports that 75 percent of its staff identify as people of color (including Hispanic, Latinx, Asian, Black or African American, or multi-racial)." At the April Board of Regents meeting, according to [Chalkbeat's Reema Amin](#), the Regents voted to scrap components of the teacher certification process that have been demonstrated over recent years to have a disproportionate and adverse impact on educators of color. Indeed, "Prospective teachers in New York state will no longer have to take the controversial edTPA, a national assessment that some have criticized as being a barrier to diversifying and growing the teacher workforce. New York's Board of Regents, the state's education policy making body, voted unanimously Tuesday to remove the multi-part exam as a requirement for earning a teaching certificate. The change goes into effect April 27. Members of the board did not discuss the matter before approving the change. But several Regents applauded the idea when it was first proposed in December, with New York City-based Regent Kathleen Cashin calling it "a very good move." " Our experience is that the State's requirement that teacher candidates provide a portfolio of work, video recordings of their classroom instruction, their lesson plans, analyses of their students' progress, and their reflections from classroom practices created an unnecessary burden. Continues Chalkbeat, "Critics have long worried that the exam shut out candidates of color from the teaching workforce, which faces a shortage. In 2017, New York officials reported that [Black test takers were nearly twice as likely to fail the edTPA](#) compared to their white or Hispanic peers. State officials have declined to share more recent test data. ... The state's teacher union celebrated the change, which has advocated against the test since New York first introduced the exam in 2014. Jolene DiBrango, the union's executive vice president, said the union has long heard complaints about the exam as overly burdensome and led some candidates to quit teacher preparation programs. This is a "critical time" to axe the



BROOKLYN LAB CHARTER SCHOOL

exam as the state faces a teacher shortage, DiBrango said. Union figures show that enrollment in state teaching programs has decreased by more than half since 2009."

As we reflected on 1/5/22, the schools work to regularly maintain compliance with relevant teacher certification regulations, and are committed to remaining in compliance going forward. Two processes are critical to our efforts: 1) regular review of teacher certification and mandated compliance with the certifications in the TEACH system and 2) a partnership with the Relay Graduate School of Education (Relay) and New York University (NYU) to provide training and certification to our LAB Fellows and Teaching Residents.

LAB partners with Relay and NYU to provide training and certification to those participating in our LAB Fellow and Teacher Residency programs. Through Relay and NYU, Teaching Residents apply and gain admission to a master's degree and state certification program. Enrollment in this graduate program is both a way to improve the effectiveness of our classroom teachers and to ensure our staff have New York Transitional B Teaching Certification in a content area and in special education. As the sponsor, LAB pays the tuition and fees for our Teaching Residents.

This guide circulated to CSO, [Brooklyn LAB School Level Actions to Support New York Teacher Certification for Teacher Residents](#), is reflective of this year's version of work we have engaged in earnest (and with increasing skill) over the past five years.

This includes guidance, support, incentives and case management related to:

- > Transition B, Initial, and Professional Certification Support
- > Fingerprint clearance and/or complete background check
- > Completion of the required New York State workshops
- > Completion of certification exams
- > Confirmation of official, passing CST and EAS exam score reports
- > Transitional B certificate institutional recommendation to New York State for certification
- > Completion of requirements for Initial Certificates
- > Applying for an Emergency COVID-19 Certificate on TEACH

Amongst other things, the School provides teachers and case management to support:

- > Application for Transitional B Certificates
- > Submitting certification materials to the graduate school
- > NYSED TEACH Program Codes
- > CST Exam(s) by Major & Certificate Pathway
- > Certification Exam Supports & Preparation Materials
- > Dual Certificate in General and Special Education Extension Requirements
- > Setting Up TEACH Account & Profile and Applying for your Certificate(s)
- > Setting Applying for your Emergency COVID-19 Certificate
- > TEACH Application Statuses

For each process, there is substantial school level work and resources deployed to support New York Teacher Certification. Next week, we are happy to provide documentation that Brooklyn Laboratory Charter Schools reimburses and supports LAB educators for all of the expenses associated with completing these action steps,



including receiving fingerprint clearance; completing necessary workshops; completing Transitional B certificate and COVID-19 Emergency Certificate applications; taking all certification exams -- including Applicable Content Specific Tests (CSTs) and Educating All Students (EAS); submitting official, passing CST(s) and EAS exam score reports; sending Transitional B certificate institutional recommendation to New York State; and completing requirements for the Initial Certificates -- including the EdTPA & Students with Disabilities CST and the certificate application.

We work tirelessly to ensure that teacher certification is reviewed and any gaps in certification are addressed. We are committed to having all staff members in compliance with the appropriate New York State certifications within the TEACH system. The schools understand that proper certifications are ongoing obligations, and work with the Relay Graduate School of Education and the Certification Team at the NYC Charter School Center to ensure this is managed effectively.

Supporting Documentation: The school has TEACH fingerprint clearance for the teacher in question that pre-dates their actual start date.

BM 10 - Indicator C #2: In the school's renewal application, leaders described working with the teacher certification team at the NYC Charter School Center to ensure that fingerprint clearance and monitoring for current teacher certification are managed effectively, securing relevant waivers, and supporting uncertified staff in pursuing transitional certification paths.

- **School's Response:** No response needed.
- **Supporting Documentation:** N/A

BM 10 - Indicator C #3: In addition, Brooklyn Lab's Fellowship and Teacher Residency programs provide fully-funded degrees and cover state certification costs for all enrolled participants.

- **School's Response:** No response needed.
- **Supporting Documentation:** N/A



BM 10 - Indicator D: The school has sought Board of Regents and/or the NYSED Charter School Office approval for material and non-material revisions.

BM 10 - Indicator D #1: The school has inconsistently sought Board of Regents and/or the NYSED CSO approval for material and non-material revisions.

School's Response: On October 18, 2021, the NYSED CSO released updated guidance titled, "Charter Revision Request/Guidance for Board of Regents-Authorized Schools ONLY". That guidance outlines that "Revisions to a charter may require the approval of either the Board of Regents (for material charter revisions) or the Commissioner of Education (for non-material charter revisions) before the school can implement the change. In some instances, proposed changes are not even revisions at all. Use this guidance document to navigate through the revision/change process for all Board of Regents-authorized charter schools." Prior to the release of that guidance, CSO staff repeatedly conveyed to Brooklyn Lab staff that the frequency and breadth of Charter Revisions sought through the Board of Regents and/or the NYSED CSO approval for material and non-material revisions was too great -- and placed an undue burden on CSO staff and the Board of Regents. That said, CSO's liaison, Executive Director, and General Counsel worked with the school's Board and staff extensively prior to October 18, 2021 -- and refined and approved dozens of material and non-material revisions covering every aspect of the Charter's operation.

Emails from the Liaison, General Counsel, and Executive Director of CSO substantiate the school's experience that the number of non-material revisions undertaken was dozens -- each with explicit written approval on redlines from the Board of Regents.

The school 100% acknowledges that these non-material revisions in 2017-2021 did not occur in a manner that was fully consistent with the October 18, 2021 Guidelines. However, no such guidelines existed during this earlier period; so in the absence of defined procedure, the non-material and material revision requests were prepared in tight coordination with charter school counsel, the Board, and all relevant CSO staff persons.

Once the CSO released the October 18, 2021 guidance, the school began to work with its new liaison to bring all intended revisions up to date with the new guidance from a procedural and substantive perspective. However, the school observes that if the explicit October 18, 2021 guidance were available beginning in 2017 -- it would have adhered to published revision protocols rather than the path taken -- which involved dozens and dozens of hours of ad hoc guidance from our liaison, the General Counsel, and the CSO Executive Director.

Supporting Documentation: The school submitted rafts of appended policies and procedures during the preparation and submission of Material revisions. This included, at a minimum, the following actions by the Board of Regents:

- Brooklyn Laboratory Charter School December 2013 Initial Charter
<http://www.regents.nysed.gov/common/regents/files/1213p12a2%5B1%5D.pdf>
- March 2017 Merger
<http://www.regents.nysed.gov/common/regents/files/317p12a6.pdf>
- March 1, 2018: Charter Revisions:
<http://www.regents.nysed.gov/common/regents/files/318p12a4.pdf>



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- March, 2019 Revision to reduce enrollment:
<https://www.regents.nysed.gov/common/regents/files/419p12a1.pdf>
- April 23, 2020: Brooklyn Laboratory Charter School (reduce the authorized enrollment from 909 students to 770 students beginning in the 2020-2021 school year)
<https://www.regents.nysed.gov/common/regents/files/520bra5.pdf>
- The Charter Renewal Application included dozens of non-material revisions.
- The Board of BLCs also submitted this number of Revisions for the Edmund W Gordon Brooklyn Laboratory Charter School.

BM 10 - Indicator D #2: Per CSO records, Brooklyn Lab has not always sought Board of Regents and/or CSO approval prior to implementing significant revisions, such as reducing its overall enrollment, changing its KDE, or adjusting its organizational chart.

School's Response: The school consistently sought the Board of Regents and or CSO approval prior to requesting, securing approval for and implementing significant revisions and non-material revisions. That said, the process of determining whether CSO or Board of Regents approval is necessary for a particular revision became significantly more clear on October 18, 2021 with the publication of the Guidance issued above. The school worked in good faith to secure appropriate written approval for revisions prior to that guidance. And, the school has spent hundreds of hours working with counsel and the Board to review and bring our processes in line with the October 2021 guidance since its publication. Because CSO is the ultimate arbiter of whether a request requires material or non-material revision, or no revision at all -- the school does not believe that it is accurate to state that it has "not always sought Board of Regents and/or CSO approval prior to implementing significant revisions." Now that the school has a new liaison and the October of 2021 guidance is published, the school has and will continue to adhere to this new guidance and process.

Supporting Documentation: The conversations between CSO and Sheryl Gomez, Mickey Revenaugh, Lauren Cutuli, and Eric Tucker in the fall and winter of 2021 evidence the claim that the school consistently sought approval. However, the school 1) thought based on CSO input that it was acceptable to "summarize" KDEs in the renewal application in order to save space -- which we now understand is not acceptable; and 2) believed that attachments to material revision requests that were redlined and reviewed by CSO staff members were considered approved when the Board of Regents voted to approve the revision request. We are now fully aware that is not the case.

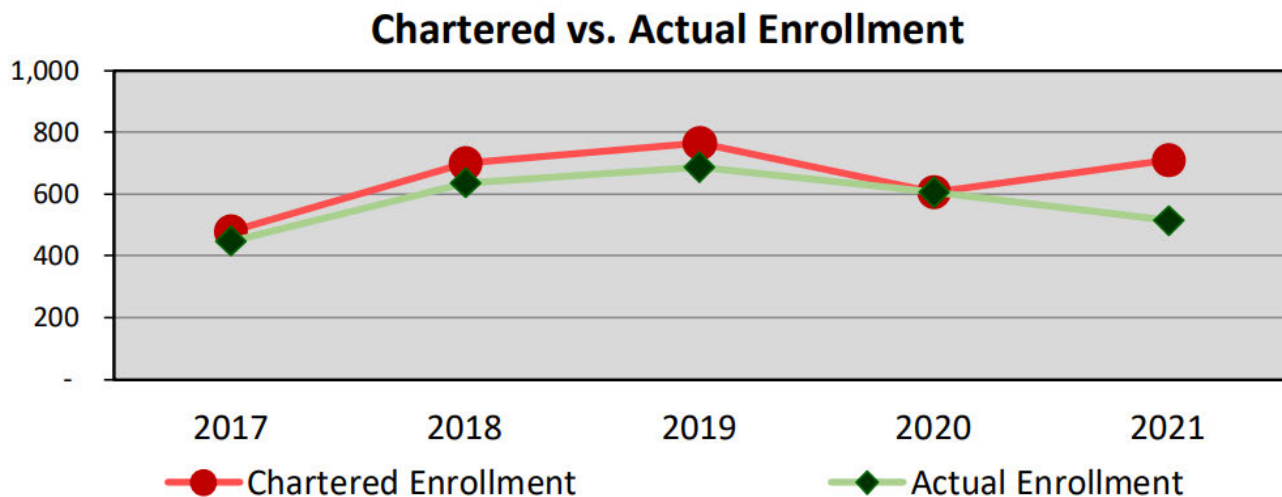


BM 10 - Indicator E: The school maintains sufficient enrollment demand for the school to meet the expectations detailed in the enrollment plan outlined in the charter and within the parameters set forth in the charter agreement.

BM 10 - Indicator E #1: The school struggles to maintain sufficient enrollment demand to meet the expectations detailed in the enrollment plan outlined in the charter and within the parameters set forth in the charter agreement.

School's Response: on Page 26 of the Renewal Site Visit Report, CSO charts Chartered Enrollment vs. Actual Enrollment. It's clear from that graph that the school's enrollment demand has been sufficient to meet the enrollment expectations outlined in the enrollment plan of the charter between 2013 and 2020. The School's Actual Enrollment has always been within the designated range until 2021. In 2021, the School operated under strict COVID-19 protocols that decreased by half the amount of in-person classroom space available, consistent with our [facilities guide](#) -- which reflected State and City Health Guidance. The School requested that CSO grant a one-time revision to its chartered enrollment as a result of these COVID-19 protocols. But, the CSO refused to consider this request -- regardless of whether the school made a material or non-material request.

Supporting documentation: This chart appears on Page 26 of the Renewal Site Visit Report

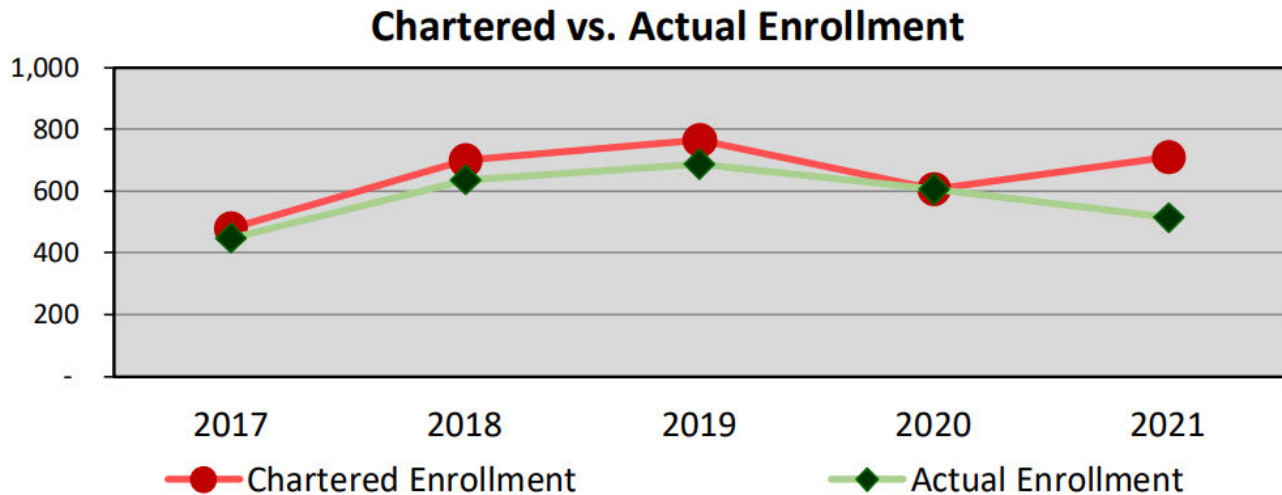


BM 10 - Indicator E #2: As described in detail in Benchmark 9 and indicator b above, CSO records and current enrollment snapshots provided to the CSO SV team onsite confirm that the school is consistently under-enrolled both for all students and ELLs, a material violation of the school's charter.

School's Response: As the CSO's records regarding Chartered vs. Actual Enrollment document, it is not accurate to state that the school "school is consistently under-enrolled both for all students and ELLs, a material violation of the school's charter."



Supporting Documentation:



BM 10 - Indicator F: The school seeks guidance from its legal counsel when updating documents and handling issues that arise.

BM 10 - Indicator F #1: The school appears to seek guidance from its legal counsel when updating documents and handling issues that arise.

- **School's Response:** No response needed.
- **Supporting Documentation:** N/A

BM 10 - Indicator F #2: The school's renewal application explains that "Brooklyn Lab regularly solicits advice and counsel from legal professionals on our Board, external retained counsel, and other legal experts" to facilitate efficient and equitable solutions when necessary.

- **School's Response:** No response needed.
- **Supporting Documentation:** N/A



April 29, 2022

Dear Colleagues,

Last week, the Board of Trustees shared a response to the draft Brooklyn Laboratory Charter School (BLCS) Renewal Site-Visit Report and the Charter Schools Office's (CSO) request for factual corrections. In that memo, the School outlined in detail some of our recommended factual corrections, with a focus on Benchmarks 6 and 10 along with certain targeted supporting documentation. In order to meet the CSO's stated timeline, we prioritized the collection of substantiating information (as submitted), but were unable to fully process all of the feedback or deeply reflect on how to ensure more effective two-way communication going forward. This memo follows up on our April 18, 2022 factual corrections, and includes a response on Benchmark 9, which was not able to be addressed in the April 18 memo. In addition, we address the critical issue of Community Responsiveness.

It is extremely, even existentially, important to BLCS students, families, faculty, and school community members that we take each possible opportunity to ensure our authorizer has complete and accurate information on our strengths, weaknesses, accomplishments, and action plans for improvement. Since we submitted our April 18 response, our team has devoted much time to reflection and review of potential sources of the factual inaccuracies. We have identified the following potential causes of factual gaps and/or inconsistencies:

- Professional and spoken communication between BLCSs Board members and staff and CSO staff members.
- Long and variable lags between the conduct of site visits and the distribution of the site visit reports.
- The transition to a new CSO Liaison for BLCS and EWG BLCS in the summer of 2021.
- The transitional period after the new CSO Portal and Guidelines were rolled out but before Schools were onboarded to the new reporting systems.

We are committed to building and maintaining a strong working relationship with CSO staff and providing timely and accurate information pursuant to the NYSED Monitoring Plan. In order to strive for full cooperation and compliance with respect to any requests by the CSO, we are writing to follow up further on our Response.

As we noted in the Response, the new liaison has brought a heightened level of precision to Benchmark documentation. However, this renewal visit – the first in-person visit for any of us during the charter term and the first for the new liaison – spotlighted multiple instances of incomplete handover of documentation within the CSO. These types of authorizer staffing transitions are inevitable, but should not be held against the professionals, families, or students who make up our high-need, highly-engaged school community.

Further, the issue of systematically late site visit reports seems to compound inaccuracies. These



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delays also prevent reports from fulfilling their purpose under the NYSED Monitoring Plan. We see CSO as the partner of our school community, and the quality of our partnership relies on each party doing its best to uphold our respective responsibilities to the other.

As we forge forward together, we remain grateful for NYSED CSO's ongoing support, guidance, and feedback that drive our own internal reflection and we look forward to any questions and clarifications. We are proud of our team's collective work and hope that we can continue fulfilling our mission on behalf of exceptional learners and their families in Brooklyn.

Best personal regards,

BROOKLYN LABORATORY CHARTER SCHOOLS

A handwritten signature in black ink that reads "Mickey Revenaugh". The signature is written in a cursive, flowing style.

By: _____

Name: Martha 'Mickey' Revenaugh

Title: Chair, Board of Trustees



Benchmark 9: Enrollment, Recruitment, and Retention: *The school is meeting or making annual progress toward meeting the enrollment plan outlined in its charter and its enrollment and retention targets for students with disabilities, English language learners, and students who are eligible applicants for the free and reduced priced lunch program; or has demonstrated that it has made extensive good faith efforts to attract, recruit, and retain such students. High schools are meeting persistence rates commensurate with the NYSED target.*

Concern from CSO:

[N]either the school's renewal application nor its self-evaluation documentation identifies general under-enrollment as a critical issue, instead focusing exclusively on subgroup enrollment.

During onsite focus-group interviews with school leaders, participants explained how members of the family and community engagement team analyze recruitment metrics such as leads generated and contacted, and the percentage of those leads that convert into applicants and students enrolled. During the remote focus group interview with board members, trustees articulated enrollment as an ongoing area of concern and focus, with data and strategies reviewed at monthly meetings.

School Response:

The Response did not include Benchmark 9 responses. But, as we reflected on the Benchmark 10 and 6 feedback, it became clear that CSO seems to be stating that the Board's oversight and self-evaluation documentation does not identify full enrollment as a critical issue. The Board has provided extensive documentation related to its oversight of Benchmark 9. Senior leaders meet multiple-times per week as an enrollment nerve center to monitor and improve enrollment, recruitment, and retention. Each monthly Finance Committee briefing provides in-depth oversight of Benchmark 9 and each monthly Board meeting provides substantive oversight. The Board has submitted oversight memos and documentation that substantiate that BLCS is making ongoing improvements to its recruitment and retention approach -- including working tirelessly for full enrollment. A few tactics that have been implemented are: Community Organizing, Online Organizing, Canvassing, and Recruitment Team Development.

There is much to celebrate and recognize about the Board and schools' proactive, successful annual progress towards meeting the enrollment plan outlined in our charter. BLCS enrolls and retains significantly higher percentages of complex learners (both students with disabilities and economically disadvantaged scholars) than our sending district. BLCS has made extensive, good faith efforts to recruit English language learners. BLCS has implemented extensive recruitment strategies and program services to attract and retain English language learners. The primary reasons for departure for all students and students identified as economically disadvantaged, students with



disabilities, and English language learners are generally moving out of the city or out of New York State. BLCS's process to evaluate recruitment strategies and program services for subgroup learners leads to ongoing, annual improvement.

A sample of some Benchmark 9 materials recently submitted to our CSO Liaison, which supports our response above, include:

- [May 5, 2021. Board Oversight and School Leadership Management of Benchmark 9: The Commitment of the Edmund W. Gordon Brooklyn Laboratory Charter School to Effective Enrollment, Recruitment, and Retention of ALL Scholars, particularly English Language Learners, Scholars with Disabilities, and Economically Disadvantaged Scholars.](#)
- [May 23, 2021. Benchmark 9 \(Enrollment Recruitment and Retention\) LAB 2020 SED Update](#)
- [January 21, 2020, Management Update to the Board on Benchmark 9 Scholar Recruitment and Enrollment Process Improvements](#)
- [January 3, 2019. Board Oversight of Benchmark 9: The Commitment of Brooklyn Laboratory Charter Schools to Effective Enrollment, Recruitment, and Retention of ALL Students, Particularly English Language Learners, Students with Disabilities, and Economically Disadvantaged Students.](#)
- [March 3, 2020 Brooklyn Laboratory Charter Schools Benchmark 9 Corrective Action Plan](#)

Benchmark 6: Board Oversight and Governance: *The board of trustees provides competent stewardship and oversight of the school while maintaining policies, establishing performance goals, and implementing systems to ensure academic success, organizational viability, board effectiveness and faithfulness to the terms of its charter.*

Concern from CSO:

[T]he board has not consistently conducted written performance-based self-evaluations, has not yet completed a comprehensive strategic planning process, and has not always ensured that school management complies with all the legal and administrative requirements of its charter agreement.

School Response:

In addition to the factual corrections submitted in our April 18, 2022 response, the Board provides the following further evidence of its fulfillment of Benchmark 6, as documented over the past year through materials submitted to CSO. The Board has completed written performance-based



self-evaluations, has completed a comprehensive strategic planning process, and has worked diligently to ensure that school management works to comply with the legal and administrative requirements of its charter agreement. Evidence submitted to CSO includes:

- [April 25, 2022. Board Oversight and School Leadership Management of Benchmark 10: The Commitment of Brooklyn Laboratory Charter School to Legal Compliance, the School's Adherence with Applicable Laws, Regulations, and the Provisions of its Charter.](#)
- [April 18, 2022. BLCs Renewal SV Report Responses to Factual Inaccuracies](#)
- [December 8, 2021. 2021-2022 Action Plan Based on Spring 2021 Mid-Term SV Report](#)
- [September 21, 2021. Pre-Renewal Site Visit School Self-Evaluation NYSED CSO 2019 Charter School Performance Framework](#)
- [Board comprehensive strategic planning diagnostic and plan, and corresponding BLCs Board and Committee Goals + Annual Calendar](#)
- [November 15, 2021, Factual Evidentiary Differences EWG MT SV Report](#)
- [May 11, 2021. Board Oversight and School Leadership Management of Benchmark 10: The Commitment of Brooklyn Laboratory Charter Schools to Ensure Legal Compliance such that the School complies with applicable laws, regulations, and the provisions of the charter](#)
- [January 5, 2022. Responses Submitted on Behalf of Brooklyn Laboratory Charter School & Edmund W. Gordon Brooklyn Laboratory Charter School](#)

The Board and management team have a set of structures in place to support effect and robust oversight, including:

- Board Site-Visit Action Plan: Development and Implementation
- [BLCs Board and Committee Goals + Annual Calendar](#)
- Compliance Calendar
- Annual Report preparation and submission
- Board Committee Work
- Charter Agreement Oversight and Implementation Tracker
- Charter Renewal Application & Attachment
- Requests for Revision
- Board Oversight Memos
- Site-Visit Deliverables and Follow Up



Community Responsiveness

Stated Priority from CSO: *CSO has outlined that, “Community-based authorizing is based on the principle that community stakeholder voice, and response to community need, is an integral component of charter school decision making at all levels. We hope to see evidence of community voice, as well as a commitment to the principles of diversity, equity, and inclusion, as part of the work happening throughout the portfolio of Board of Regents-authorized charter schools.”*

School Response:

The School has provided extensive evidence – sampled below – of community stakeholder voice and responsiveness to stakeholder needs. This evidence of responsiveness to the voice and priorities of Black and brown communities ravaged by the pandemic was ignored and criticized by CSO. The school should receive recognition and credit for this work, which is aligned to the authorizer’s stated priorities.

- [May 11, 2021. Community Responsiveness: The commitment of Edmund W. Gordon Brooklyn Laboratory Charter School to the principle that community stakeholder voice, and response to community need, is an integral component of charter school governance, operations, and decision making.](#)
- [Spring 2021 BLCS Community Responsiveness: A summary of Brooklyn LAB’s community responsiveness initiatives](#)
- [BLCS Community Support: A summary of Brooklyn LAB’s community support initiatives](#)
- [Brooklyn LAB Resources Related to Communication Focused Operational Improvement](#)
- [Brooklyn LAB SY 20-21 Highlights A summary of Brooklyn LAB’s Community Responsiveness highlights from the 2020-2021 school year](#)
- [EWG Community Support: A summary of Brooklyn LAB’s community support initiatives](#)



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May 30, 2022

██████████
Chief of Staff
Office of Education Policy
New York State Education Department
89 Washington Ave., Rm. 2M
Albany, NY 12234

RE: CSO Evaluative Feedback on Teaching and Learning at Brooklyn Labs Charter Schools and Its Academic Program

Dear ██████████:

I hope this finds you well. I am writing regarding the Charter Schools Office's (CSO's) Renewal site visit report (the Report) for Brooklyn Laboratory Charter School (the School).

There are several items I will address, including:

- The importance of observing the School's strong in-person teaching and learning environment through in person site visits from CSO, rather than remote observation.
- The importance of conducting an evaluative review of the Benchmark 1 Narrative submission and integrating that submission into the Report and the renewal decision.
- The strength of the School's Teacher Certification approach and systems.
- The strength of the School's approach for serving Students with Disabilities.
- The strength of the School's Corrective Action Plan processes focused on Teaching and Learning.

The importance of observing the School's strong in-person teaching and learning environment through in person site visits from CSO, rather than remote observation.

As I have previously written to CSO, the BLCS board, leadership team, and staff are proud to have been providing in-person instruction 5-days a week since mid-August, 2020, while taking great care



to prioritize the physical, mental, and social-emotional wellness of our students in alignment with public health guidelines and feedback from families and community stakeholders.

As you know, CSO conducted its mid-term site visit of Edmund W. Gordon BLCS remotely on April 22-23, 2021 (i.e., CSO observed in-person classroom instruction remotely). The School respected that decision out of an abundance of caution for CSO team members and consistent with our careful efforts to safeguard school community health. Virtual observations of on-site programming were necessary to support schools during phases of the pandemic that restricted public gatherings, mandated social distancing, and necessitated complex contact tracing protocols. However, despite best intentions, remote observations are inherently limiting in capturing key strengths of in-person learning.

BLCS's renewal site visit on September 23-24, 2021 was conducted in person. Our team valued the opportunity to have the CSO team here, in our physical locations of teaching and learning. It allowed us to present a comprehensive view of what is happening within our school - from even the briefest interactions with support staff who perform critical operations functions, to in-depth interviews with our instructional leaders, to the robust face-to-face focus group conversation with our students (who enthusiastically shared about their internships and the college applications they were working on while also candidly critiquing the lunch options).

Notably, while the classrooms observed during the in-person visit were substantially similar, as was the composition of the CSO team, the conclusions drawn about the quality and efficacy of instruction were significantly different between those two visits. The same program received different ratings, with the remote visit resulting in poor ratings whereas the in-person visit resulted in stronger assessments of our instructional effectiveness and fidelity to our key design elements. We believe these stronger, clearer conclusions accurately reflect the strength of the program at BLCS and EWG BLCS.

The importance of conducting an evaluative review of the Benchmark 1 Narrative submission and integrating that submission into the Report and the renewal decision.

As I have previously written to CSO, I am concerned that the Renewal Report does not seem to consider the SY 20-21 Benchmark 1 Narrative, even though it is the single most important document, for the highest priority Benchmark. I wrote to CSO to convey concern that the School's SY 20-21 Benchmark 1 Narrative submitted on October 29, 2021 does not seem to have influenced the preparation of the Renewal Site Visit Report. I requested that the CSO read the Narrative carefully, consider the information in that submission, and "base the renewal recommendation in part on the strength of this data." (See Exhibit 9). In that message, I affirmed my position that the



Narrative “accurately and compellingly captures certain aspects of our results in accordance with guidance from NYSED -- and that it should be reviewed and considered in the renewal report.” (See Attachment 1).

I also acknowledge that the Narrative’s data points reveal some challenges for which we have plans in place. This demonstrates the seriousness with which the School takes Corrective Action Plan obligations.

To comply with CSO direction, guidance and training, the School devoted considerable resources and staff time to conduct local assessments, and prepare and submit comprehensive documentation that contained the requested multiple measures of student progress toward State learning standards. Clarity about which aspects of CSO’s published renewal application and performance monitoring guidance CSO will in fact prioritize would help create reasoned and stable expectations.

It is unclear why CSO chose not to respond to my respectful request that the BLCS Benchmark 1 Narrative be considered in full and have an impact on our overall Benchmark 1 rating and CSO’s renewal recommendation for BLCS. But, it is sadly consistent with the experience of many in our school community that this correspondence went unanswered and my request for clarity regarding this Narrative went unmentioned in the draft Renewal Site Visit Report.

The strength of the School’s Teacher Certification approach and systems.

BLCS has taken the challenge New York State is facing regarding recruiting, hiring, and retaining certified teachers head-on, particularly teachers who are Black or Brown. The School has committed to grow its own teacher pipelines by using residency programs in partnership with New York University and the Relay Graduate School of Education. Brooklyn Laboratory Charter Schools has supported over 100 educators of color to complete a graduate program in teaching and complete the requirements for certification. Almost all of these educators have also fulfilled the requirements to become certified special educators.

Our multi-pronged approach to cultivating diverse talent and ensuring educator certification includes:

- LAB Corps Fellows: During their first year at our school, educators serve as LAB Corps Fellows whose main role is providing high dosage tutoring and mentoring services under close supervision. The structured, supportive, and hands-on pipeline program helps fellows decide whether the teaching profession is the right path for them; at the same time, administrators and tutor supervisors are able to identify promising teacher candidates.



- **The Fellowship supports and pays for Fellows to get ready to be eligible to work in New York City Schools given State requirements.** This includes supporting Fellows to complete (and paying for) fingerprint clearance, TB Testing, NYS Sexual Harassment Training, Citizenship Status - INS Permanent Residence or U.S. Citizenship.
- **The Fellowship supports and pays for Fellows to complete workshops necessary to switch to a matriculated student status. This includes paying for and supporting the completion of the following Workshops:** Child Abuse Identification, School Violence Intervention and Prevention, Students with Autism Training, and Dignity for All Students Act.
- **The Fellowship supports and pays Fellows to complete exams necessary for certification, and achieving matriculated student status.** This includes reimbursing for Content Specialty Tests, Multi-Subject Specialty Test, EDTPA, and Safety Net Examinations.
- **The Fellowship helps the School select Fellows who are well positioned to end the fall or spring term in good academic standing.** This includes giving Fellows the chance to grow responsive to feedback, be stronger at classroom management, build positive relationships with students, engage in academic planning, and build professional relationships with colleagues.
- **The Fellowship decompresses the timeline for candidates to achieve milestones related to eligibility, workshops, examinations, and preparation to successfully reach good academic standing.** Making sure there is enough runway and support for Fellows to complete eligibility, workshop, and certification exam requirements is critical to later success in the Residency.
- **Teacher Residency:** Fellows who successfully complete their first year and are identified as promising teacher candidates are then admitted into a residency path. They spend the next two years completing their graduate studies while collaboratively co-teaching with an experienced educator.

Being intentional about our hiring process makes a difference in how our scholars and families experience daily life at our school. One parent told us, “Seeing so many strong, kind, loving African American males that my kid can model himself after ... that is priceless. We don’t see it enough in the educational system. It’s [inspired] great conversations that we have at home: You can have a career in education, you can be a role model, you can lift other kids up. The teachers and deans are invested in [my child’s] education and his character. They shake hands, they encourage eye contact. These are things that you want your son to hear from another male, from this person that he looks up to. He’s in an environment where these men are not afraid to show they care. And that matters.”



BROOKLYN LAB CHARTER SCHOOL

Study after study shows that students of color thrive when their teachers look like them and have shared experiences. According to Pathways Alliance, which advocates for teacher diversity, it's more important than ever to build sustainable education preparation programs. Doing this, according to the Teaching Profession Playbook, requires investments, which public charter schools are prepared to make. As Monica Martinez, director of strategic initiatives at the Learning Policy Institute, points out, this type of work is: "opening the door for a more diverse workforce."

It is unfortunate that CSO's authorization process is failing to recognize this progress and holding back this momentum by overemphasizing the technical format of reports rather than the underlying realities of certification counts. We acknowledge that in January 2022, CSO provided new guidance regarding TEACH, which conflicted with previous guidance. Although we have been happy to adjust to this updated guidance, I note that too often, CSO has made threats and taken steps that restrain the progress of emerging educators of color and exclude aspiring teachers from contributing.

CSO should encourage charter schools to prioritize the cultivation of robust talent pipelines that include educators of color. It has the opportunity to support the School's efforts to create long-term solutions to staffing shortages and cultivate a more diverse workforce. It has the opportunity to take the Board of Regents' lead by increasingly considering certification expectations within the context of creating space for teams of educators to specialize to meet the needs of students and provide educators with better ways to enter the profession, develop professionally, and advance.

It's disappointing that this issue is framed by CSO as a compliance weakness alone. It could be approached through a balanced assessment - that both provides feedback on modest technical areas for growth and simultaneously celebrates the school's investment in diverse educator certification and professional growth.

The strength of the School's approach for serving Students with Disabilities.

The School genuinely privileges the needs of all learners, including those who live with disabilities. Brooklyn LAB is a leader in special education. The National Alliance for Public Charter Schools just recognized our school with the 2022 Changemaker Award for its work in Special Education. The National Center for Learning Disabilities recognized the school as an Everyday Champion. The National Center for Special Education in Charter Schools, before rebranding as the Center for Learner Equity, named the school a Center of Excellence. Together with a coalition of civil rights groups, disability advocacy organizations, and others, LAB co-founded the Educating All Learners Alliance because we know charter schools can be more nimble and innovative, creating new approaches to serving historically disadvantaged students.



BROOKLYN LAB **CHARTER SCHOOL**

One of the nation's leading education lawyers, Paul O'Neill, of the Center for Learner Equity, urges schools to both acknowledge the “smallness and the meanness and the narrowness of the structure that we consider to be the standard,” and to respond with the kind of empathy, compassion, and commitment to human dignity that come from a place of deep care. He asks, “Who deserves less than everything we can do for them?”

Unfortunately, public charter schools like ours sometimes get penalized by authorizers for disrupting the broken model. We are proud to serve all learners. CSO should incentivize academic growth and the quality of programs, interventions, and services focused on meeting the needs of students who learn and develop differently. BLCS should be encouraged to defend and promote the civil and human rights of underdeveloped learners, rather than incentivized to avoid serving young people whose abilities have been disproportionately underdeveloped.

Brooklyn LAB has demonstrated a commitment to ensuring that students with disabilities have equitable access to quality educational options. CSO has the opportunity to recognize, rather than omit reference to, our efforts to effectively serve Black, Latino, and low-income students with disabilities. Rather than treating our disproportionate share of students with disabilities and profound needs as a compliance issue and failure to address a Benchmark 9, Corrective Action Plan -- CSO could take a more balanced view, recognizing the qualitative and programmatic strength of our Benchmark 9 work in this domain.

The strength of the School's Corrective Action Plan processes focused on Teaching and Learning.

The Benchmark 10 Indicator (b) feedback regarding the Corrective Action Plan (CAP) process is confusing and inaccurate, given that the School's constant self-assessment and engagement in improving its teaching and learning environment is actually a great strength of the School.

It's worth noting that CSO's own assessment of the School's teaching and learning indicators during the period of CAP improved, and CSO consistently rated the School at “Meets.” Please see the table below.

CSO's Benchmark 10.b Final Site Visit Report Assessment of BLCS Corrective Actions for Academics

On March 12, 2019, [REDACTED] wrote to request a Corrective Action Plan (CAP) template be completed. Mrs. Santiago wrote, “As the purpose of these letters is not punitive, but rather to elicit



improvements, we hope that you will take these letters as an opportunity to grow. ... We are always happy to provide any support or resources if needed, as possible.” BLCS completed the template and submitted in advance of the CSO deadline on March 11, 2019.

Benchmark 10.b Assessment of Corrective Actions for Academics

CSO’s Final Site Visit Report

	November 9, 2018	April 8, 2019	August 12, 2020	May 18, 2022
Benchmark 2: Teaching and Learning	Meets	Approaches	Meets	Meets
Benchmark 3: Culture, Climate, and Family Engagement	Meets	Meets	Not Rated (remote)	Meets

The documentation related to the School Year 2019-20 Corrective Action Plan (CAP) for Academics demonstrates BLCS diligently documented actual progress, and CSO provided positive feedback verbally on Zoom check-ins over 10 times during the CAP term, but did not raise a single written concern or follow up in writing until April 2022.

The **Table** below summarizes the Timeline for resolution of the February 2019 Corrective Action Plan for academics.

Timeline	
February 12, 2019	CSO requests an academic CAP for SY19-20
March 11, 2019	BLCS submits CAP (March 2019-June 2020)
March 12, 2019	CSO confirms CAP, promises to follow up in writing with any questions or concerns
July 30, 2019	BLCS submits extensive CAP update
October 30, 2019	BLCS submits extensive CAP update



November 1, 2019	BLCS submits CAP staffing update
January 21, 2020,	BLCS submits CAP MS update
March 26, 2020 April 2, 2020 April 9, 2020 April 16, 2020 April 23, 2020 May 7, 2020 May 14, 2020 May 21, 2020 May 21, 2020 May 27, 2020 June 4, 2020 June 5, 2020 June 11, 2020	Benchmark 1, Benchmark 9, and Benchmark 10 leadership and Board repeatedly meet with CSO Liaison - securing strong verbal CSO feedback
June 18, 2020	BLCS submit closeout CAP update, and fulfill term of SY19-20 CAP
August 12, 2020	CSO summarized positive March-June feedback
April 12, 2022	The State issues written concern related to February 12, 2019 CAP

In the May 2022 Report, CSO wrote: “Brooklyn Lab is still under a CAP for academic underperformance and enrollment deficiencies, and the CSO is currently reviewing the CAP, including actions taken and progress made, and will determine if the CAP is to remain open or be discontinued.” BLCS is sympathetic that CSO’s typical cadence of review of academic data was disrupted by the pandemic; however, construing CSO’s lack of written follow up and positive verbal briefings as justifying a “Falls Far Below” is confusing.

Conclusion

The Renewal Report’s Benchmark 10 section almost reads as though it was prepared by a different author and harbors a different set of experiences of the School than many of the earlier Benchmarks. In sum, I and the School are disappointed by CSO’s inclination to ignore the positive strengths of



BROOKLYN LAB
CHARTER SCHOOL

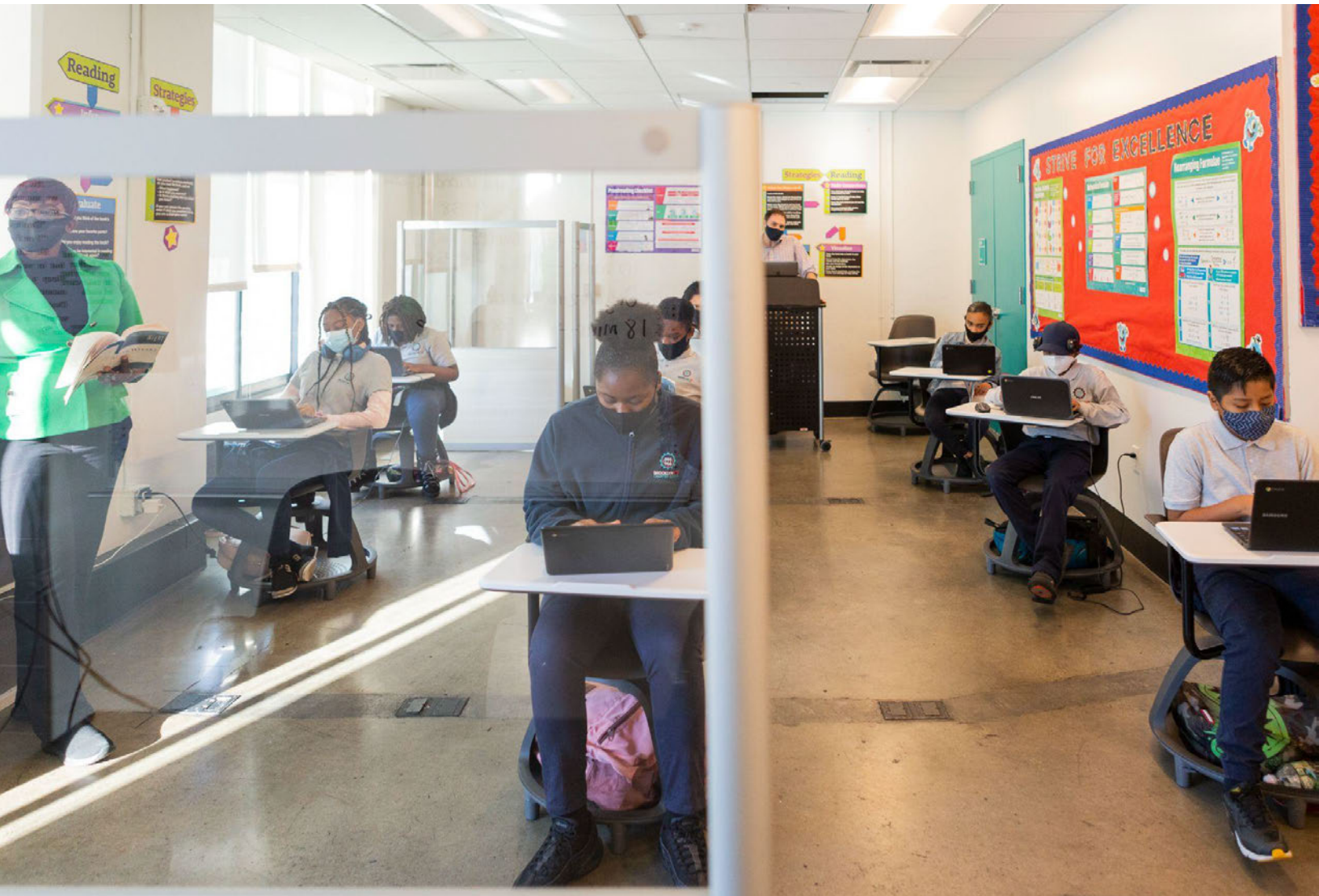
our unique learning environment and to emphasize nonmaterial paperwork issues. After receiving extensive positive feedback from our former CSO liaison, we were shocked by the assessments included in the Report, especially with respect to Benchmark 10. I urge NYSED CSO to re-write Benchmark 10, at a minimum, but to also incorporate the bullet points I have provided above across the Report to achieve a factually accurate and comprehensive assessment of the school's successes and areas for future growth:

At a minimum, that would trigger an upward revision of Indicator (a), Indicator (b), and Indicator (c). Because those three indicators serve as the foundation for anything other than a "Meets" rating, and because the "Falls Far Below" for Benchmark 10 is influencing the School's rating for Benchmark 6, I believe this review is time-sensitive and important.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Bb Ntsakey".

Bb Ntsakey
Senior Director of Academics
Brooklyn Laboratory Charter Schools



**Brooklyn Laboratory Charter School
SY 2021-2022 Charter Term
Renewal Application
Benchmark 1: Student Performance
October 29, 2021**

On behalf of the Board of Trustees of Brooklyn Laboratory Charter Schools (the “[Board](#)” or “LAB”), we write to provide you with the *Benchmark 1: Student Performance* for Brooklyn Laboratory Charter School (“BLCS” or “the School”).

Consistent with the SY 2021-2022 Charter Term [Renewal Guidelines](#) and Application, BLCS is focused on meeting and exceeding the general academic standards for a full-term renewal, which are:

- *The school’s outcomes on the New York State 3-8 math and ELA assessments meet or exceed the district and approach or exceed the state average proficiency rate.*
- *For schools that serve high school grades, cohort Regents examination pass rate outcomes are expected to meet or exceed the state average.*
- *For high school graduation results, the cohort graduation rate should meet or exceed the state graduation rate.*

On October 28, 2021, the New York State Education Department (NYSED) made the 2021 3-8 ELA and Mathematics Reports and Researcher Files publicly available on the [public data site](#). NYSED’s Director of Educational Data and Research, Rose M. LeRoy, wrote:

*Due to the extraordinary circumstances related to the pandemic, because a large number of students did not take the exam, state assessments **are not representative** of the state’s student population and the results **should not be compared** statewide or by statewide subgroup, or with prior year’s results. District and school level performance data, as well as the number and percentage of students who tested and did not test, are available for 2020-21. **However**, depending on the percentage of students that took the tests in a given school or district, the school and district’s results **may not be representative** of that school or district’s student population.*

We appreciate the extensive, good faith efforts the New York State Education Department’s Charter School Office (NYSED CSO) has made to recognize the challenges of the SY 2019-2020 and 2020-2021 assessment cycles and to provide channels for [Reporting Local Assessment Outcomes](#). We also appreciate NYSED’s openness to considering assessment data submitted by the School as supplementary evidence for a school’s performance.

State assessment data was not available for the 2019-2020 school year, and the State assessment program looked different in the 2020-2021 school year. Because of the timing of release and completeness of statewide and Community School District 13 data available, the majority of this renewal submission as follows:

- For Middle School, it compares 2021 6-8 ELA and Mathematics data for BLCS and LAB to previous years (generally 2019) released data for ELA and Mathematics for New York State, Community School District 13, and the Similar Schools Comparison. Throughout the document we will also refer to “All LAB MS” to represent when we combine data sets for both middle schools, and “BLCS” when we refer to the School’s middle or high school data.
- For High School, it compares 2018-2021 Regents, Advanced Placement, and Graduation data for BLCS to the most recently released data for New York State, Community School District 13, and the Similar Schools Comparison.

We have completed this October 29, 2021 Benchmark 1 narrative based on the data available to the School during its preparation.

We appreciate the care NYSED is taking to ensure that publicly released data are up to date and accurate. Our Board and School value the opportunity to understand our results within the context of the best available data submitted to the NYSED by public school districts and charter schools.

We have strived to produce a Benchmark 1 data analysis that most closely resembles what might typically be sent to schools as Attachment 1. That said, we would value the chance to submit supplementary analysis as data becomes available on the NYSED Data Site or the Level 2 Reporting System.

The Board and School are best able to assess teaching and learning, evaluate the program, and achieve accountability within the context of quality achievement data and strong comparison data. This includes the use of:

- formative, diagnostic, and summative assessments,
- qualitative and quantitative data to inform instruction and improve student outcomes,
- qualitative and quantitative data to evaluate the quality and effectiveness of the academic program and modification of the program accordingly for both individual students as well as subgroups, and
- multiple measures to assess student progress toward State learning standards, and to help inform academic intervention services and school-level improvement initiatives and decision making.

School leadership provides day-to-day management and execution of work to ensure student performance exceeds the expectations outlined in the Charter Schools Performance Framework. This narrative is intended to summarize data and progress attained over the course of the short charter term and some of the decisions that have determined that success.

Over this time, BLCS invested in increased content internalization support for middle school ELA teachers that has led to significant gains in middle school ELA on all measures. The school's continued investment in high dosage tutoring and expanding scholar services support has supported students to make growth on a high stakes supplemental assessment—the NWEA MAP assessment—greater in most cases than their nationwide peers. These supports have supported all learners to make progress toward high school readiness, attain hundreds of Regents credits, and to achieve 100% on track to graduate status. The first graduating high school class graduated with a 93% four-year graduation rate.

These points are a reminder of BLCS's commitment to serving every scholar. Students with Disabilities account for 30% of BLCS' scholar population and BLCS maintains an open enrollment policy such that students may enroll at any point between 6th and 10th grades. BLCS's graduation rate exceeds that of the surrounding district and the state overall, and far exceeds those comparison groups when considering ELLs and Students with Disabilities. At BLCS ELLs and Students with Disabilities are prioritized and well-supported to make progress throughout their time with the school and, as such, they graduate at equal or higher rates than their general education peers. At BLCS, Students with Disabilities make up a higher proportion of the overall student population than is the case for the surrounding district as well as the state overall. BLCS also consistently supports all students to achieve both growth over time and overall success at demonstrably high levels compared

to those groups, as well as similar schools. The highest performing high school option in CSD 13, Brooklyn Tech, reports exceptional graduation rates but [enrolls very few Students with Disabilities](#). Simply put, BLCS has sought out to serve students who are not traditionally served well by other schools, and is doing so in an unparalleled manner.

The contents of this Memo will demonstrate the following strengths:

- **BLCS's 4-year graduation rate (and projected 5-year rate) meet or exceed the New York State and CSD 13 rates for all students and for core subgroups.**
- **BLCS's cohort Regents pass rate outcomes meet or exceed the state average.**
- **BLCS's and All LAB MS outcomes approach, meet, or exceed the district and approach or exceed the state average proficiency rate.**
- **Our 4 year-over-year proficiency growth in ELA and Math significantly outpaces growth of students in CSD 13 schools and schools across NY State.**
- **When compared to similar schools, LAB students dramatically outperform peers in proficiency and growth over time.**

These data points also reveal some challenges for which we have plans in place. Most notably, we are working urgently to improve math instruction for Students with Disabilities.

All Schools

This section outlines the achievement and progress for the school related to the elements of the performance framework that apply to all schools.

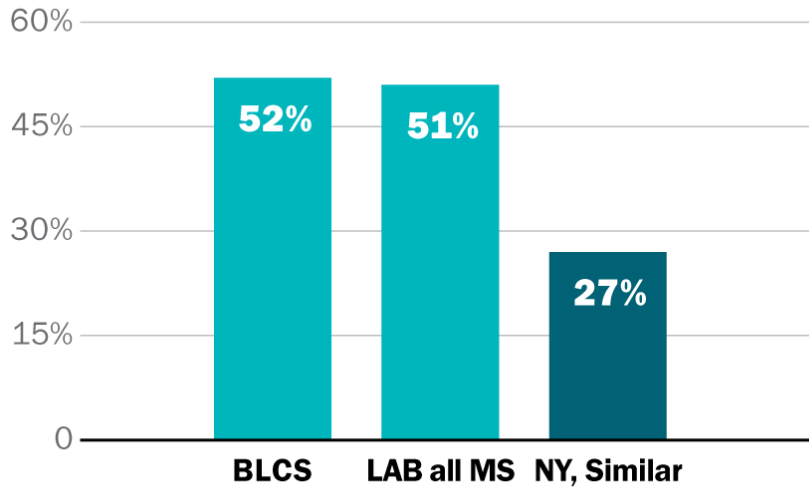
1a. (i) Accountability - ESEA Accountability Designation: The School is in good standing.

1b. (i) Similar Schools Comparison - Comparative Proficiency

Middle School ELA: BLCS is making great progress for students compared to similar schools¹. Not all schools serve the same population as BLCS, and as such, it is most relevant to compare ourselves to the schools that do.

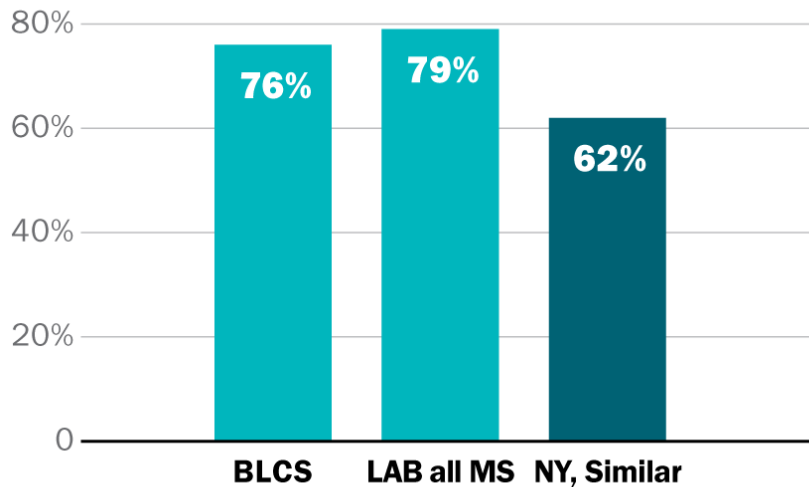
¹ See [Appendix A](#) for how the Similar Schools Comparison cohort was identified.

ELA Proficiency, All Students (Levels 3-4)



Based on most recent available data: 2018-2019 for NY Similar Schools, and 2020-2021 for BLCS and LAB all MS.

ELA Proficiency, All Students (Levels 2-4)

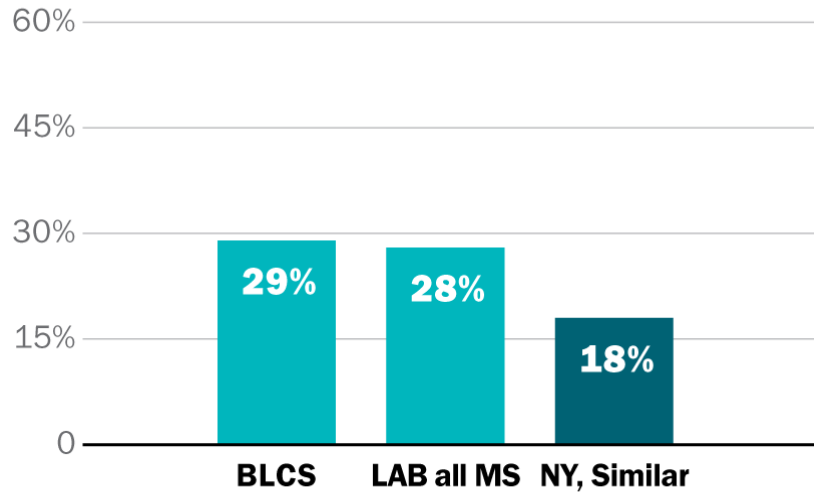


Based on most recent available data: 2018-2019 for NY Similar Schools, and 2020-2021 for BLCS and LAB all MS.

In the area of Middle School English Language Arts, students at BLCS dramatically outperformed the group of comparison schools both when we looked at overall proficiency (levels 3-4, +24%) and when we looked at the percentage of students at approaching *or* proficient levels (levels 2-4, +17%) on the New York State Common Core assessment.

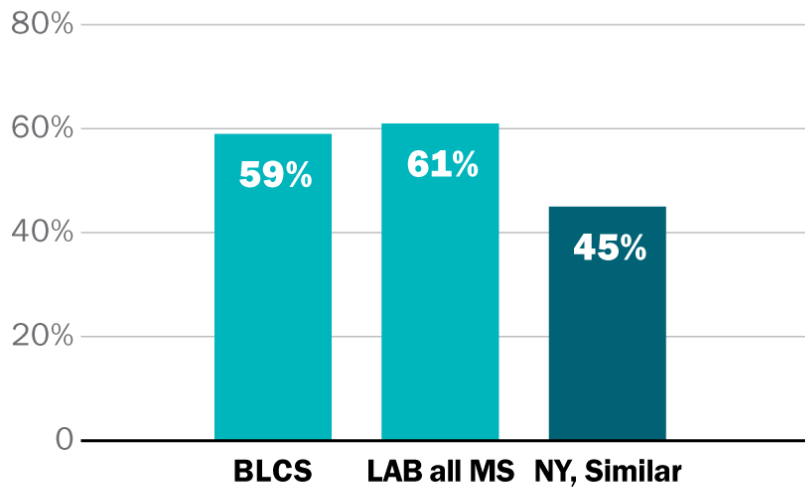
Middle School Math: BLCS is also making great progress for students compared to similar schools in Mathematics when compared to the same similar schools.

Math Proficiency, All Students (Levels 3-4)



Based on most recent available data: 2018-2019 for NY Similar Schools, and 2020-2021 for BLCS and LAB all MS.

Math Proficiency, All Students (Levels 2-4)

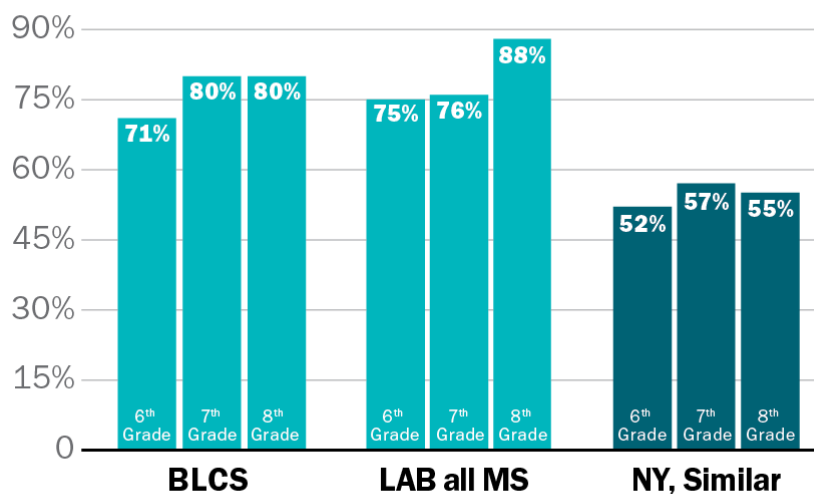


Based on most recent available data: 2018-2019 for NY Similar Schools, and 2020-2021 for BLCS and LAB all MS.

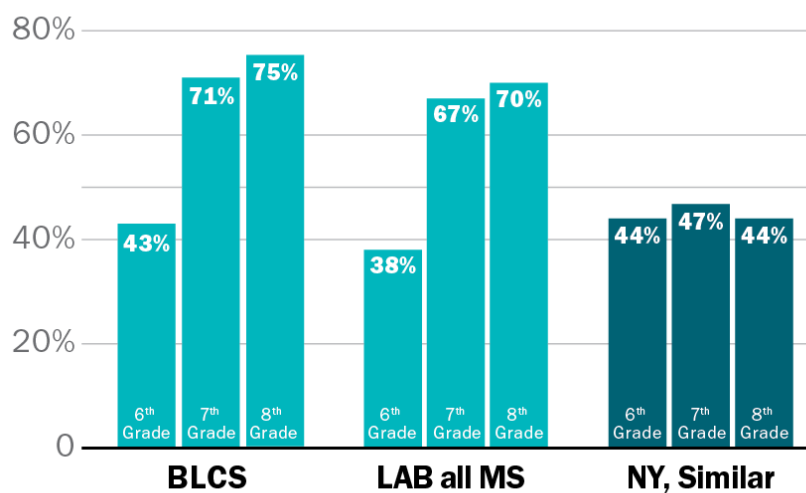
In Middle School Mathematics, students at Brooklyn LAB outperformed the group of comparison schools both when we looked at overall proficiency (levels 3-4, +11%) and when we looked at the percentage of students at approaching *or* proficient levels (levels 2-4, +16%) on the New York State Common Core assessment.

Grade Level Proficiency Comparisons in Middle School: In both ELA and Mathematics, students at Brooklyn LAB are making great progress over time compared to similar schools.

ELA Proficiency, All Students (Levels 2-4)



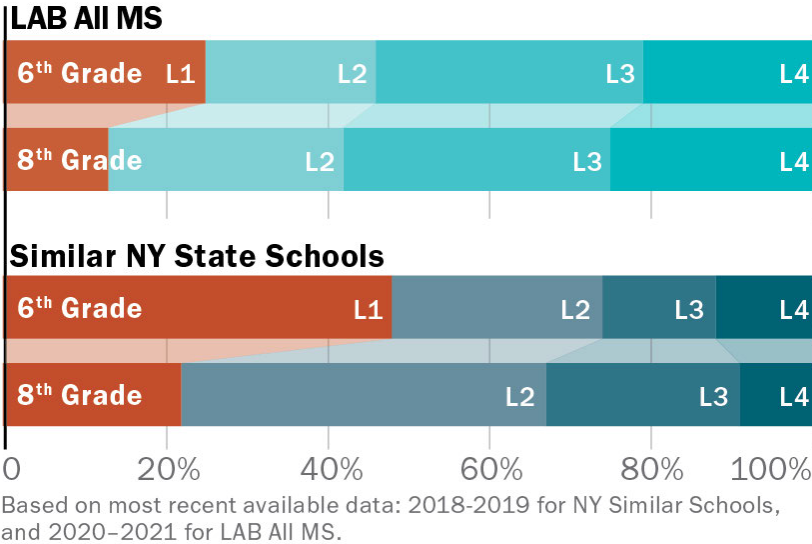
Math Proficiency, All Students (Levels 2-4)



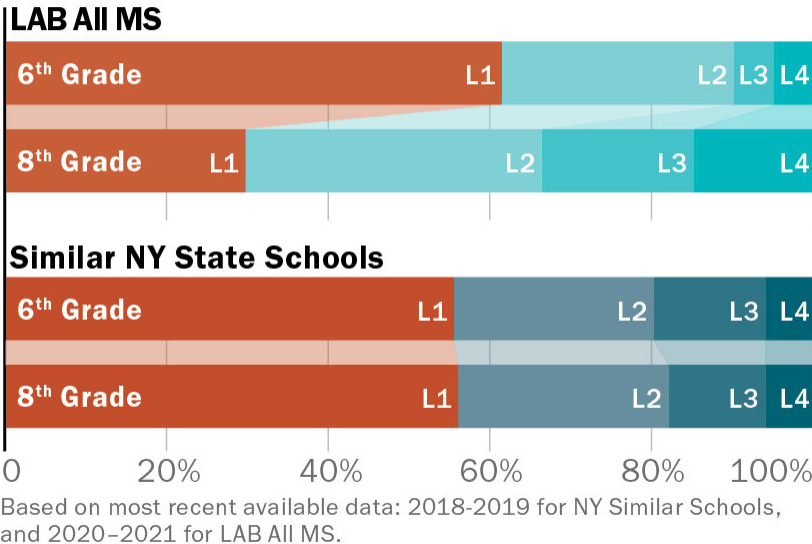
In ELA there are 13% more students achieving at approaching, proficient, or advanced levels in 8th grade than in 6th grade. That is compared to only 3% higher for 8th than 6th in similar schools. In Mathematics, 32% more students at LAB achieved approaching, proficient, or advanced levels in 8th grade than in 6th grade compared to a 0% difference for similar schools. Our commitment as a school is to assess students where they are when they enter and grow them over time; this data suggests that we are succeeding at developing greater and greater proficiency with students the longer they stay at LAB.

The key takeaway here is that over time, fewer students at Brooklyn LAB score in Level 1. This is not true for similar schools in New York State.

ELA Proficiency Growth, Grade 6–8



Math Proficiency Growth, Grade 6–8

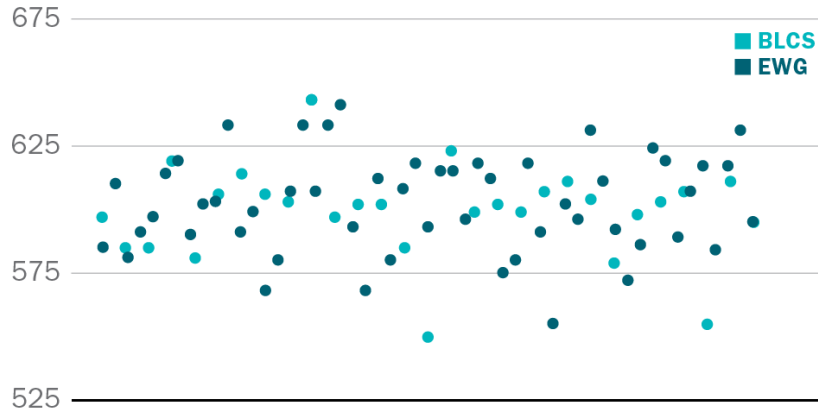


NOTE: When comparing Middle School State Assessment data, we looked at the data set for BLCS and the data set for all of the Brooklyn LAB middle school scholars (which includes the Edmund W. Gordon BLCS students), because the sample size of on-site scholars for each of the two enrollment tables was small and the academic program is provided substantially similar to all students. Therefore, we believe that the “LAB All MS” most accurately and completely represents the outcome of our efforts in middle school academic programming.

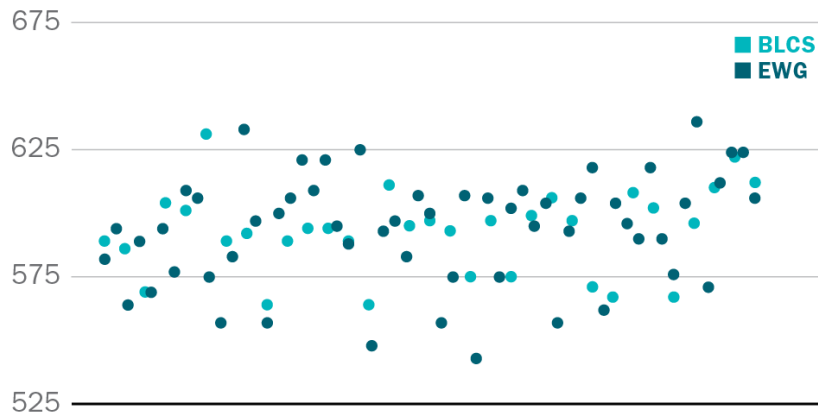
The School believes that the “All LAB MS” data are the best available data—of all data submitted to the NYSED by our public charter school. The School has taken great care to ensure that the two middle schools (BLCS

EWG BLCS) are consistent, congruent, and aligned. The School believes that the combined view eliminates unnecessary noise and provides an accurate view of the program.

NYSED State Exam ELA Results, BLCS and EWG

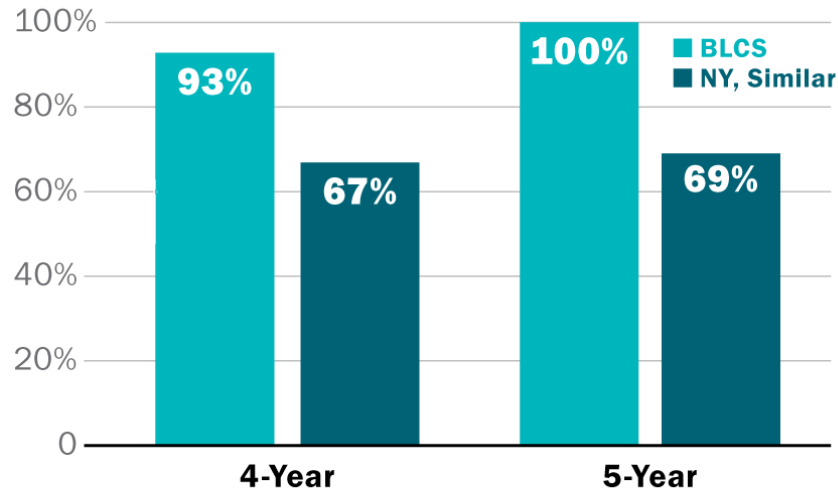


NYSED State Exam Math Results, BLCS and EWG

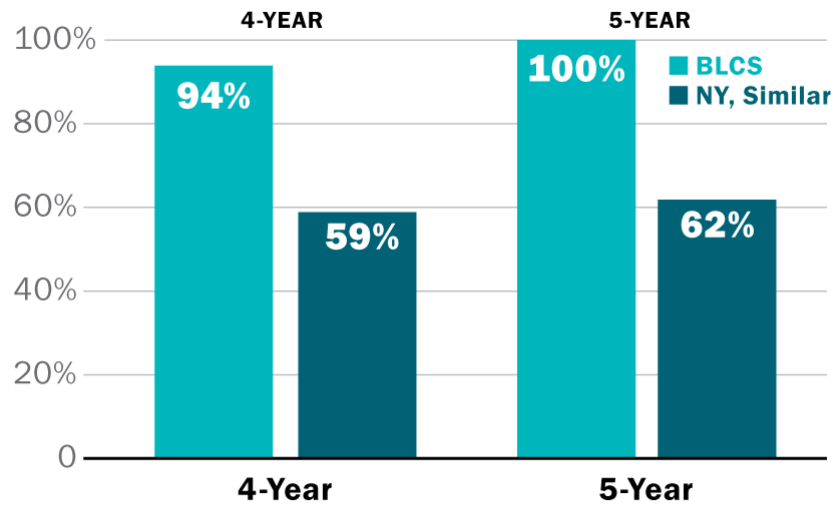


Graduation Rate for High School: Brooklyn LAB students graduate in 4 years or in 5 years at a much higher rate than similar schools, and that is consistent across all subgroups analyzed.

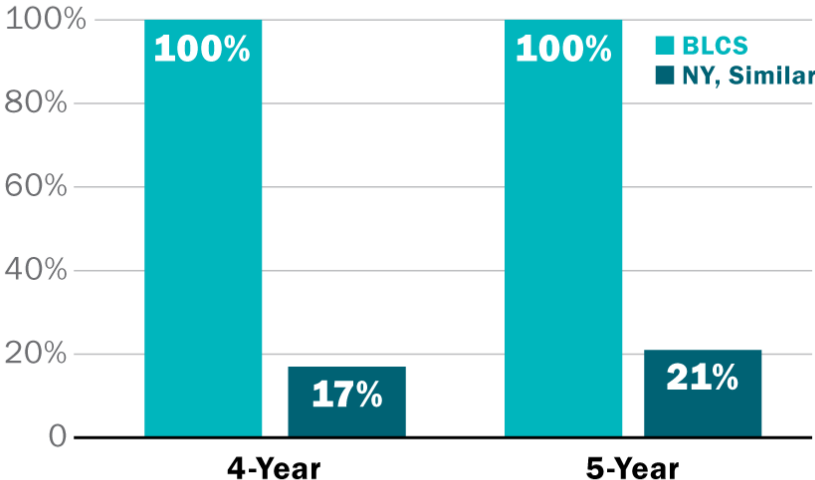
Graduation Rates, 4- and 5-Year (All Students)



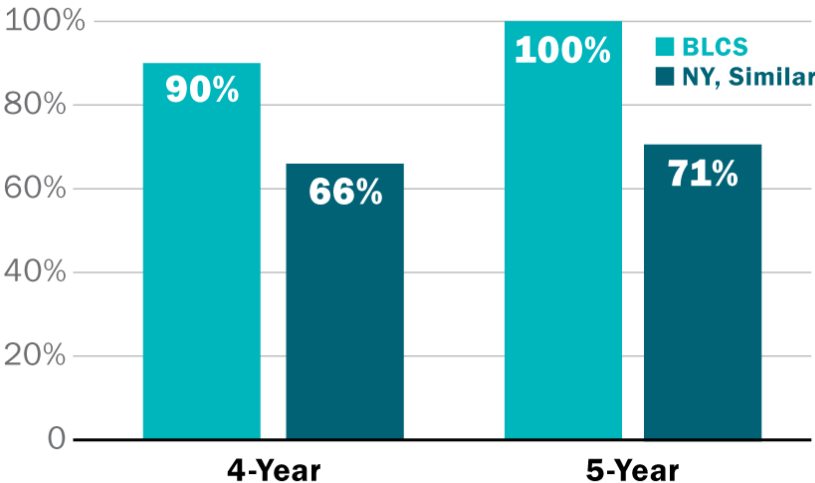
Graduation Rates, 4- and 5-Year (SWD)



Graduation Rates, 4- and 5-Year (ELL)



Graduation Rates, 4- and 5-Year (ED)

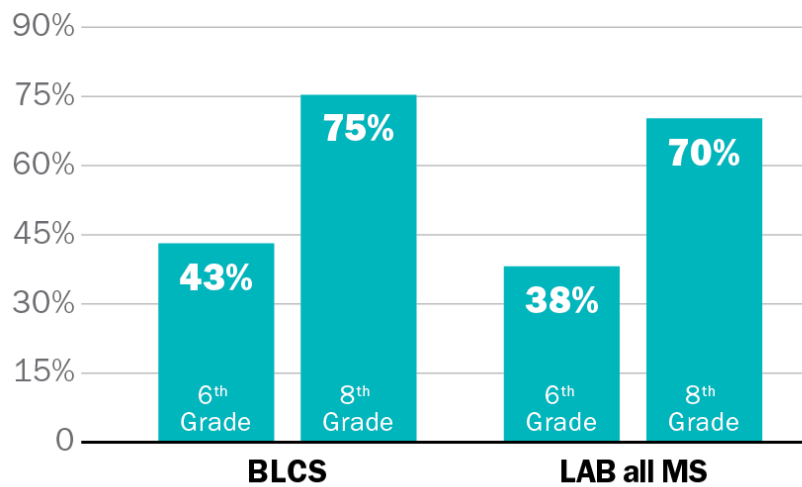


Middle Schools Outcomes

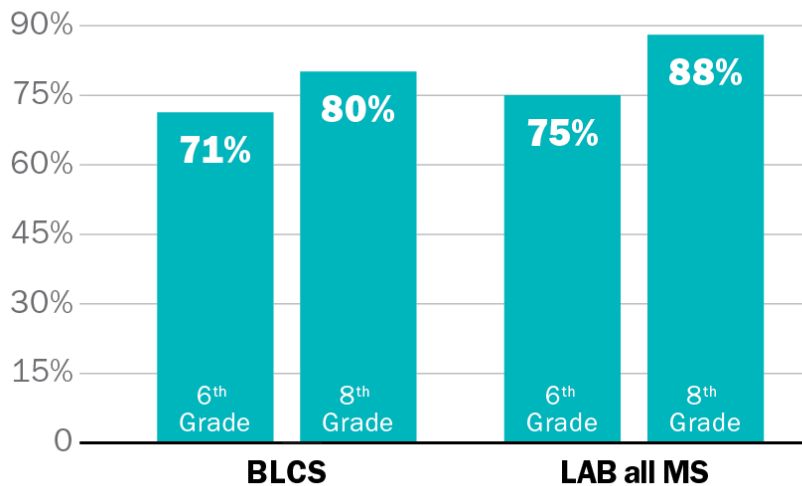
2a. (i) Trending Toward Proficiency - Aggregate Standards-Based Trend Toward Proficiency - Math/ELA: The data in Level 2 necessary to calculate trending toward proficiency is not available this year.

Students' proficiency comparisons on the New York State Common Core assessments suggest an upward trend toward proficiency over time. For instance, 8th graders perform closer to grade level proficiency than 6th graders, and that comparison point is true for both Math and ELA.

Math Proficiency, All Students (Levels 2-4)



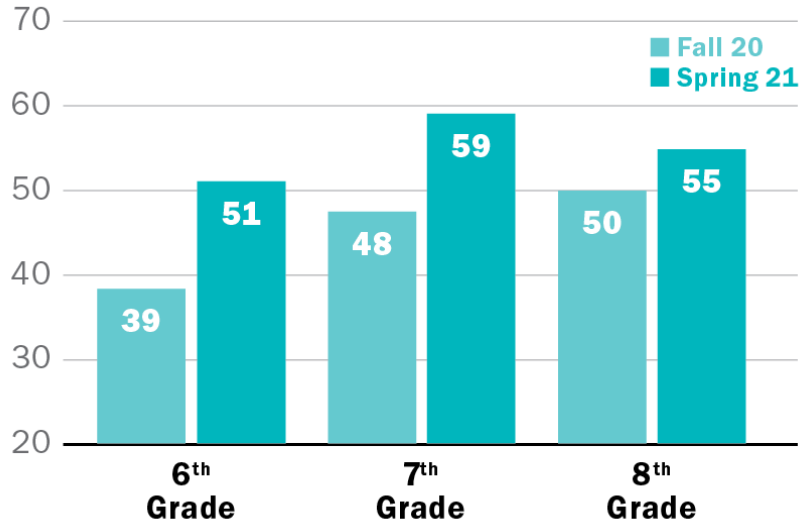
ELA Proficiency, All Students (Levels 2-4)



Although students enter far below grade level, they make significant progress over the course of their enrollment at both BLCS and EWG BLCS.

Internally created Interim Assessments that serve as supplemental data points also show increases in proficiency across Middle School English Language Arts and Mathematics. According to the internally-administered Interim Assessments, which have been designed using past years' released New York State assessment items, Middle School scholars demonstrated significant progress in English Language Arts over the course of the year.

IA English Scores, Fall 2020–Spring 2021

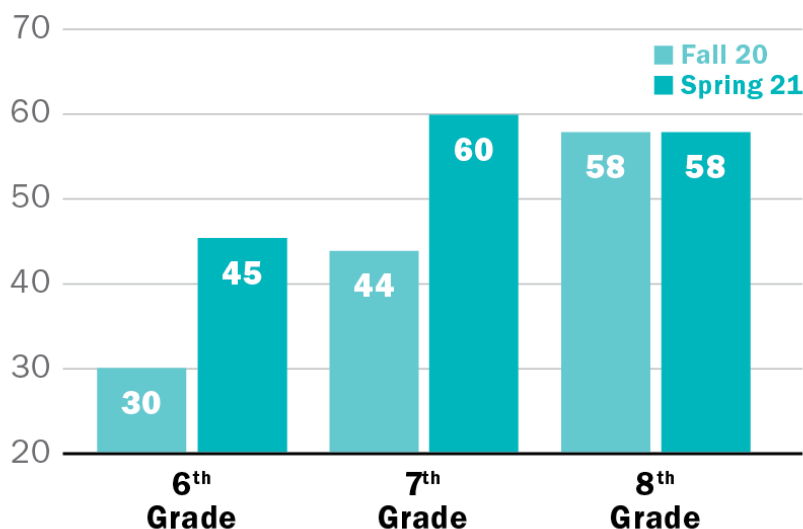


Specifically, students attained positive growth from fall to spring in all three grade levels:

- Grade 6: +11.80 percentage points,
- Grade 7: +11.44 percentage points,
- Grade 8: +05.07 percentage points.

According to the internally administered Interim Assessments that were designed using past years' released New York State assessment items, Middle School scholars demonstrated significant progress in Mathematics in grades 6 and 7 over the course of the year, and sustained proficiency in grade 8.

IA Math Scores, Fall 2020–Spring 2021



Specifically, students attained the following positive growth from the fall to spring assessment:

- Grade 6: +14.90 percentage points,
- Grade 7: +16.30 percentage points,
- Grade 8: +00.20 percentage points.

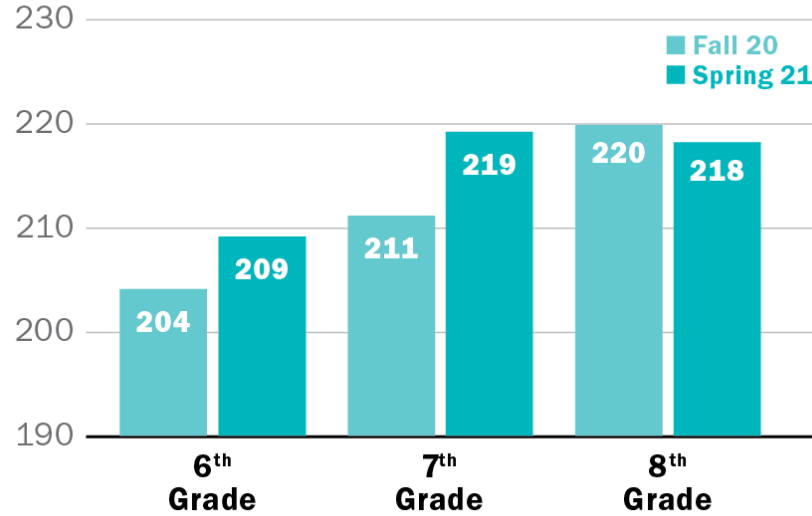
2a. (ii) Trending Toward Proficiency - Subgroup Standards-Based Trend Toward Proficiency - Math/ELA: The data in Level 2 necessary to calculate trending toward proficiency is not available this year.

2b. (i) Proficiency - Aggregate School Level Proficiency and 2b. (iii) Aggregate Grade Level Proficiency (English Language Arts)

In the area of English Language Arts, BLCS students have demonstrated significant overall growth, improvements in proficiency over time, and outperform all comparison groups on the New York State Common Core Assessment.

According to NWEA MAP, which is a nationally-normed assessment that LAB uses for supplementary data and allows comparisons to students nationally, Middle School scholars demonstrated growth in Reading from Fall to Spring in grades 6 and 7, and demonstrated sustained performance in 8th grade.

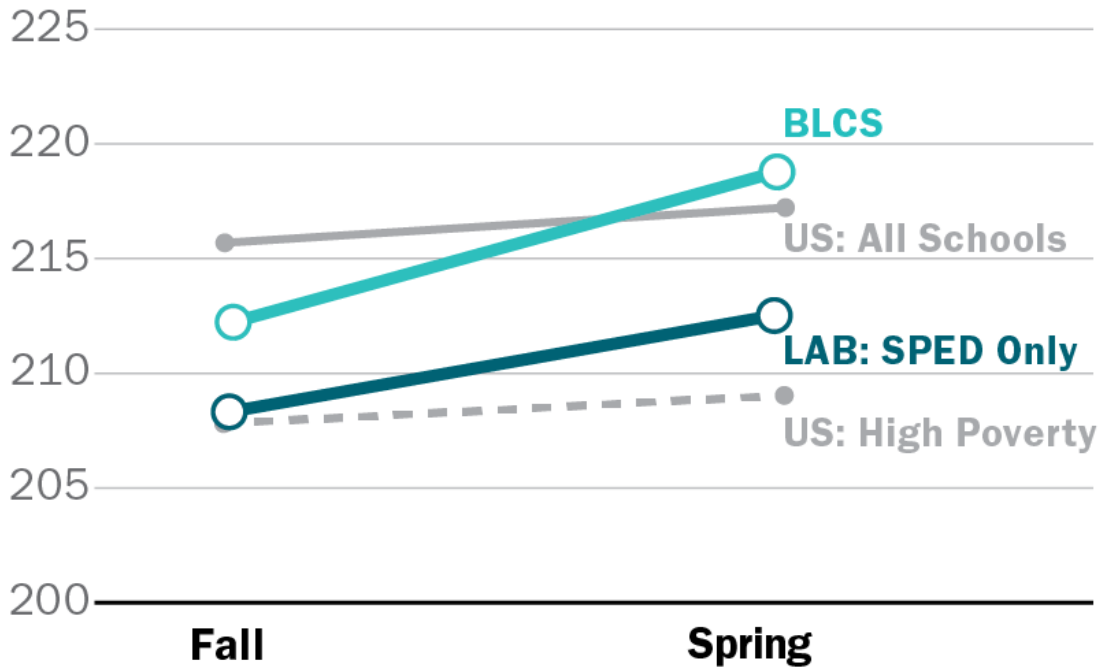
MAP Reading Scores, Fall 2020–Spring 2021



NOTE: The spring 8th grade aggregate cohort includes additional students who did not test in the fall.

LAB relies on the NWEA MAP assessment as a nationally normed comparison, so it is also helpful to view student data in the context of national averages. Additionally, BLCS has demonstrated a track record of commitment and success with serving Students with Disabilities, so their performance is analyzed separately below.

2020–21 NWEA MAP Scores, English 7

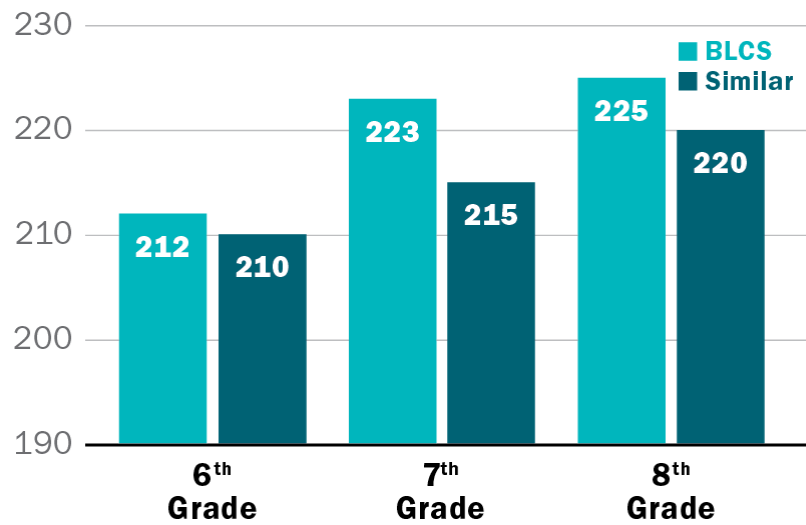


In the particular case of 7th grade, the progress and overall proficiency is extremely significant and represents a critical step toward the realization of the mission of the school. Students demonstrated more progress over the course of the year than students nationwide, and this remains true when our students are compared to all schools, as well as when they are compared to high poverty schools.

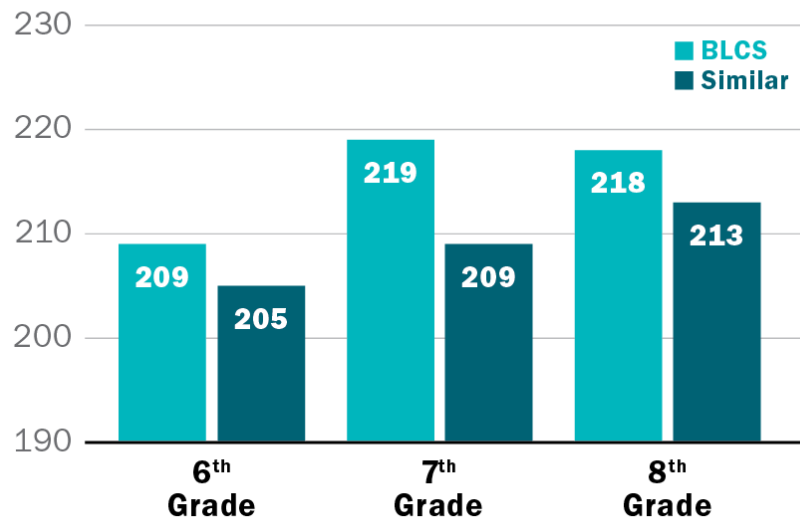
Since the makeup of LAB's student population is similar to that of a high-poverty school as classified by the NWEA², it is significant to note that in all cases and for all student groups, student performance in the spring is higher than that of high poverty schools nationwide, and in some cases much higher. Most notably, 7th grade students overall made such significant growth over the course of the year that they ended the year performing above the nationwide average for all schools. The significance of this trend line cannot be understated, as it represents a realization of a core component of LAB's mission—to close the achievement gap between high poverty students of color and their more affluent peers.

² NWEA Map classifies a high poverty school as one with greater than 75% of students qualifying for free or reduced-price lunch.

MAP Math Scores, Spring 2021



MAP Reading Scores, Spring 2021

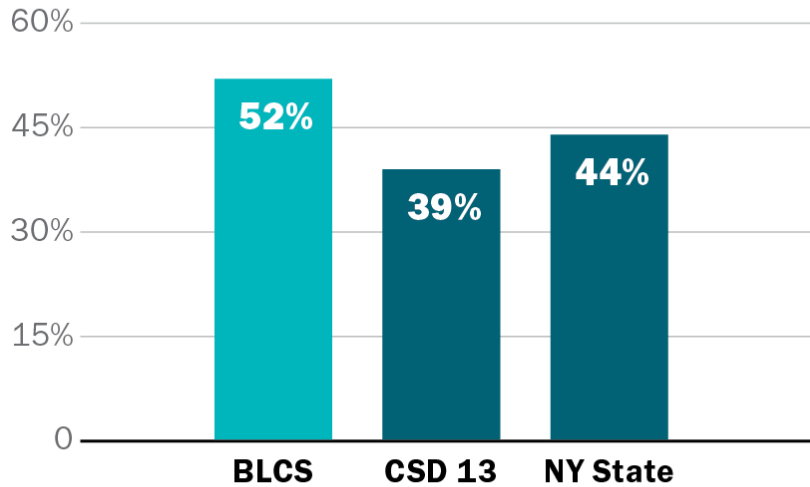


Ultimately, the tracking student progress on NWEA MAP is in service of supporting their readiness to demonstrate their knowledge and skills on the New York State Common Core assessment each spring as we seek to ensure they meet or exceed the achievement indicators tied to the New York State Common Core assessments. In the spring of 2021, many students sat for the state assessment for the first time in two years.

In the area of English Language Arts, students outperformed the surrounding district and NY State. Given the small data set of test-takers in Spring 2021, we compared BLCS as a cohort as well as the combined number of all Middle School students (at both our schools) to build a larger data set[and to reduce noise from outliers. Additionally, the academic programming is identical across the two

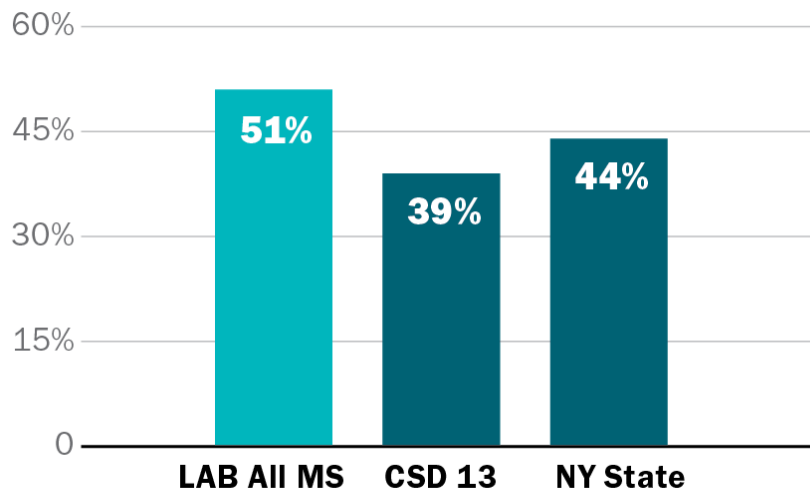
schools, so we believe that the cohort of all Middle School scholars is demonstrative of the full impact of our academic program³.

ELA Proficiency, All Students (Levels 3-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for BLCS.

ELA Proficiency, All Students (Levels 3-4)

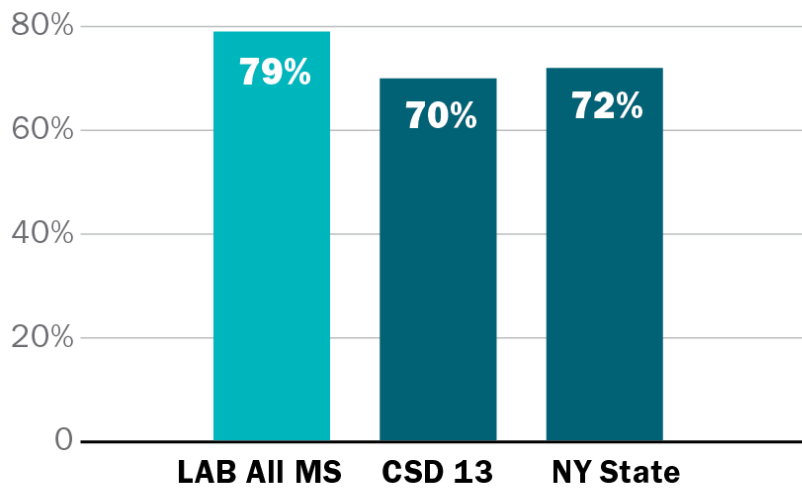


Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for AB All MS.

Students demonstrated stronger grade level readiness in ELA overall than they did the last time they took the state test two years ago (+21% at levels 3-4), and exceeded the outcomes demonstrated by the state overall and by our surrounding district CSD 13.

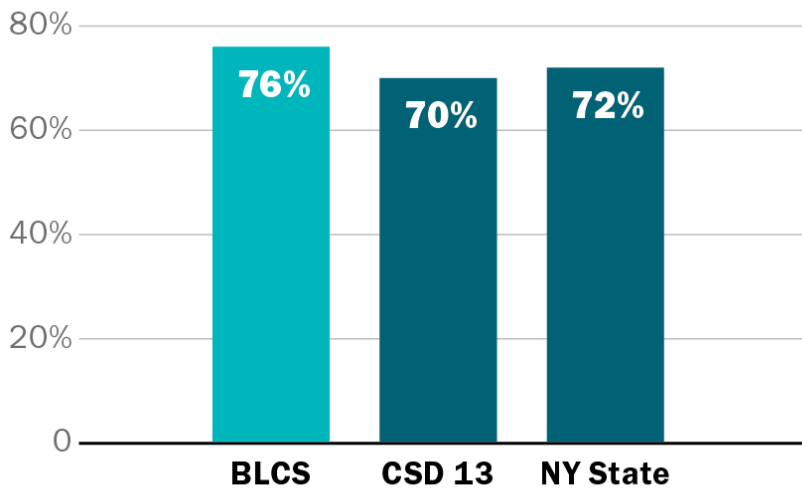
³ Data Source in [Appendix D](#)

ELA Proficiency, All Students (Levels 2-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for AB All MS.

ELA Proficiency, All Students (Levels 2-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for BLCS.

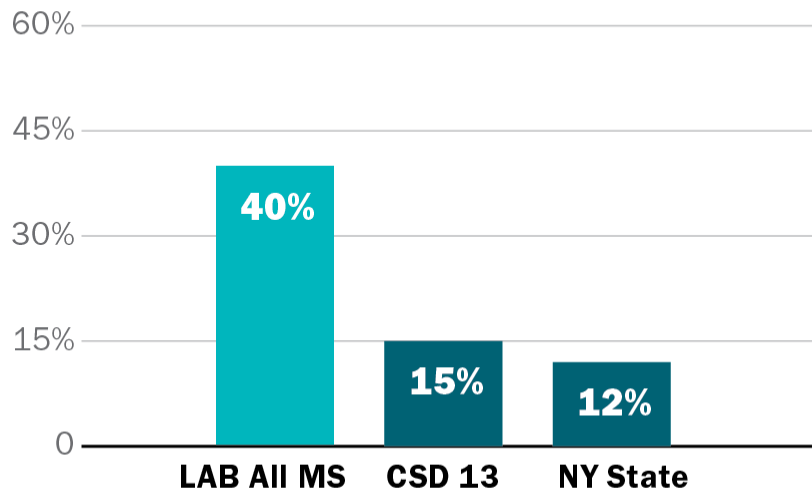
In addition, the percentage of students achieving levels 2-4 (representing approaching, proficient, or advanced) also exceeds that of the surrounding district CSD 13 and New York State.

2b (ii) Proficiency - Subgroup School Level Proficiency and 2b (iv) Subgroup Grade Level Proficiency (English Language Arts)

Given LAB's demonstrated commitment to serving Students with Disabilities, of particular note is the decreasing percentage of students in Level 1 and the increasing percentage of students in all

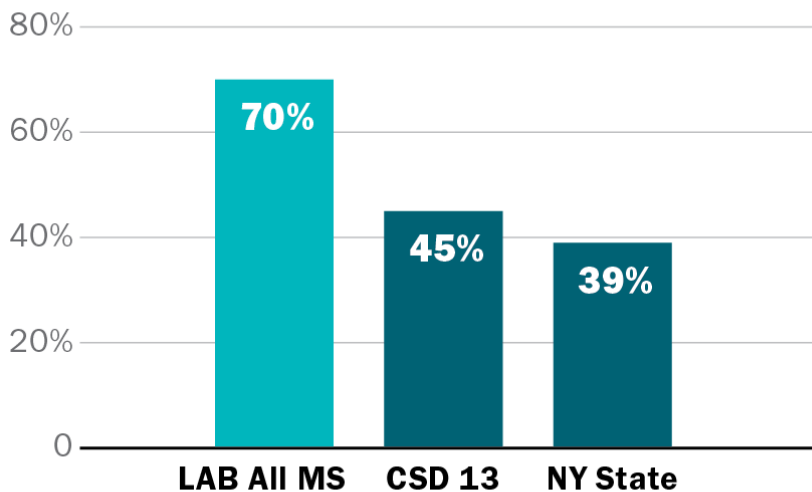
other level groups. This trend holds true when compared over time (18-19 vs 20-21), and with comparable benchmarks (averages for CSD 13 and for the State). This trend suggests that when struggling students attend LAB, they make greater improvements than if they attended another school. Additionally, the highest percentage of students earning Level 3 or Level 4 is in 8th grade with 60%. This suggests that although students enter 6th grade performing below grade level, our rigorous and supportive academic program is able to close some of the gaps between 6th and 8th grade.

ELA Proficiency, SWD (Levels 3-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for LAB All MS.

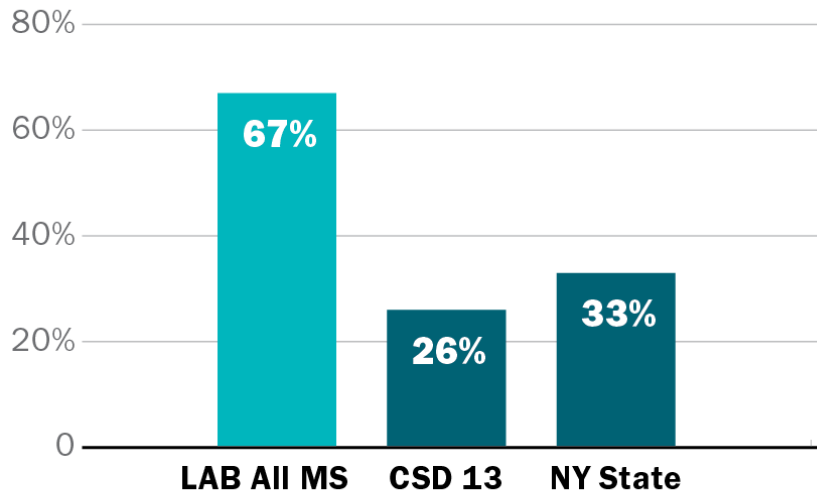
ELA Proficiency, SWD (Levels 2-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for LAB All MS.

Of the LAB Students with Disabilities in 2020-21, the percentage of students achieving either approaching, proficient, or advanced levels (levels 2-4) exceeds all comparison groups, *as does* the percentage of students achieving proficient or advanced levels (levels 3-4).

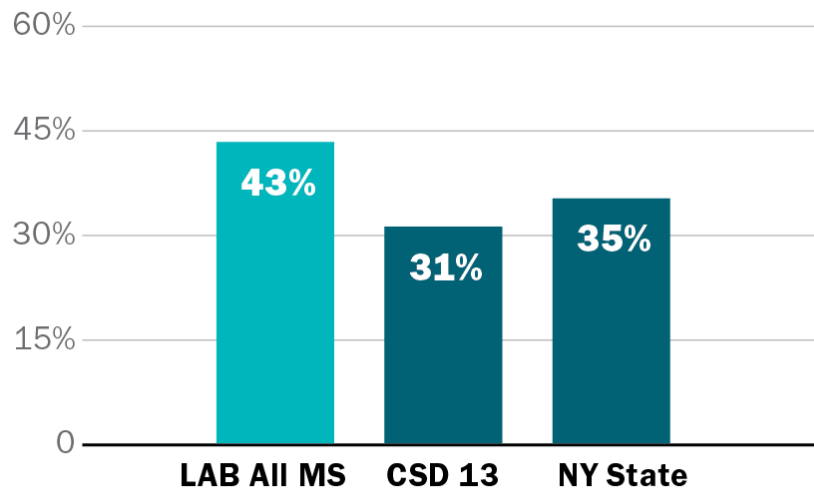
ELA Proficiency, ELL (Levels 2-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for LAB All MS.

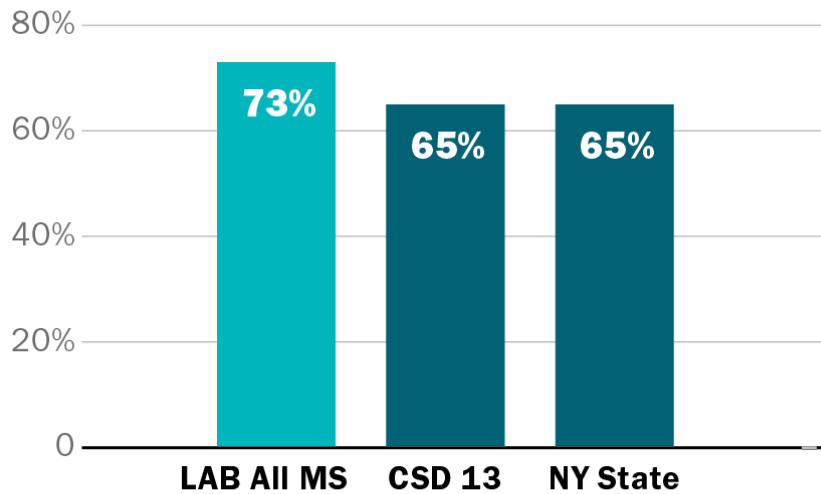
Of the LAB students classified as English Language Learners in 2020-2021, the percentage of students achieving either approaching, proficient, or advanced levels (levels 2-4) exceeds all comparison groups.

ELA Proficiency, ED (Levels 3-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for LAB All MS.

ELA Proficiency, ED (Levels 2-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for LAB All MS.

Students classified as Economically Disadvantaged (ED) also outperformed the state and sending district for both proficiency (levels 3-4) and approaching + proficiency levels (levels 2-4).

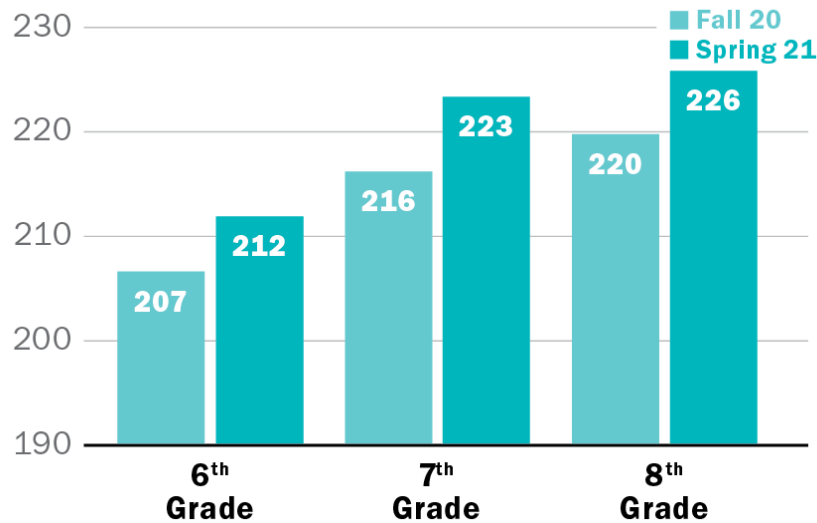
By all measures, LAB scholars are making demonstrated progress in English Language Arts and reading and becoming more competitive each year as they attain the academic outcomes achieved by their wealthier peers nationwide.

2b (i) Proficiency - Aggregate School Level Proficiency and 2b (iii) Aggregate Grade Level Proficiency (Mathematics)

In Mathematics, student growth has been consistent and overall proficiency levels match those of the surrounding district CSD 13.

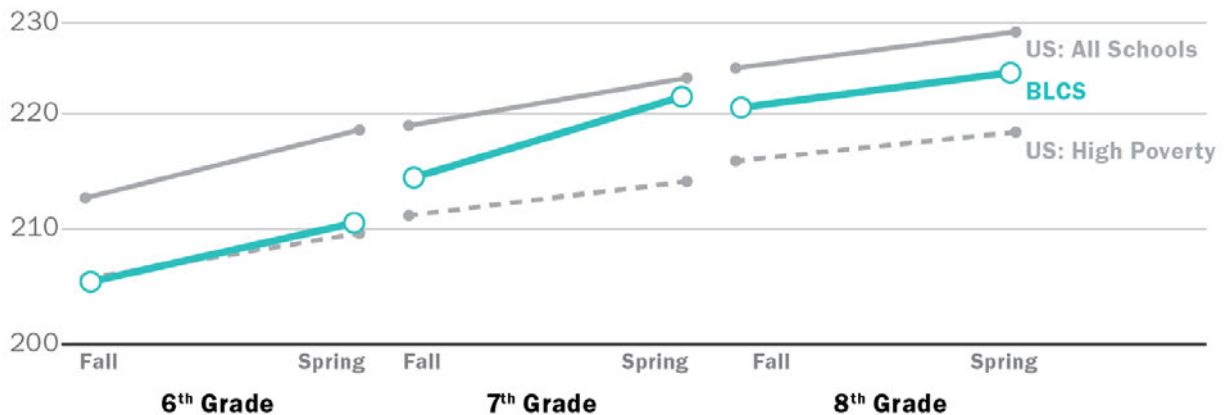
According to NWEA MAP, which is a nationally normed supplemental assessment and allows comparisons to students nationally, Middle School scholars demonstrated growth in Mathematics from fall to spring in all three grade levels, with the most significant growth taking place in grades 6 and 7.

MAP Math Scores, Fall 2020–Spring 2021



BLCS relies on the NWEA MAP assessment as a nationally normed comparison, so it is also helpful to view student data in the context of national averages. Additionally, BLCS has demonstrated a track record of commitment and success with serving Students with Disabilities, so their performance is analyzed separately below.

2020–21 NWEA MAP Scores, Math

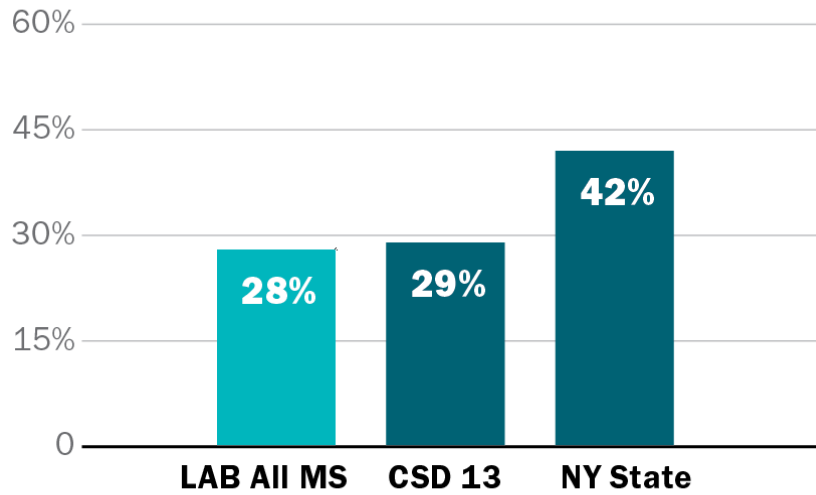


In 8th grade Mathematics, Students with Disabilities also made growth that was equivalent or better than all comparison groups over the course of the year. Finally, and most notably, the significant growth in 7th grade serves to narrow the achievement gap between high poverty students of color and their more affluent peers.

Again, tracking student progress on NWEA Map is in service of preparing them for the high stakes state assessment as we seek to ensure they meet or exceed the achievement indicators tied to the New York State Common Core assessments. In the spring of 2021, many students sat for the state

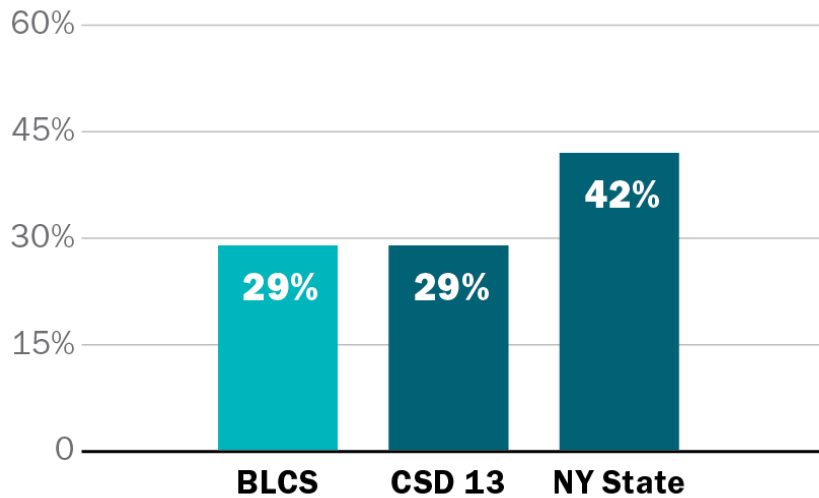
assessment for the first time in two years. In the area of Mathematics, students performed right at the same level of proficiency as the surrounding district CSD 13. Additionally, there were fewer students performing in Level 1 than we had the last time students took the assessment (or any time in the past).

Math Proficiency, All Students (Levels 3–4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for AB All MS.

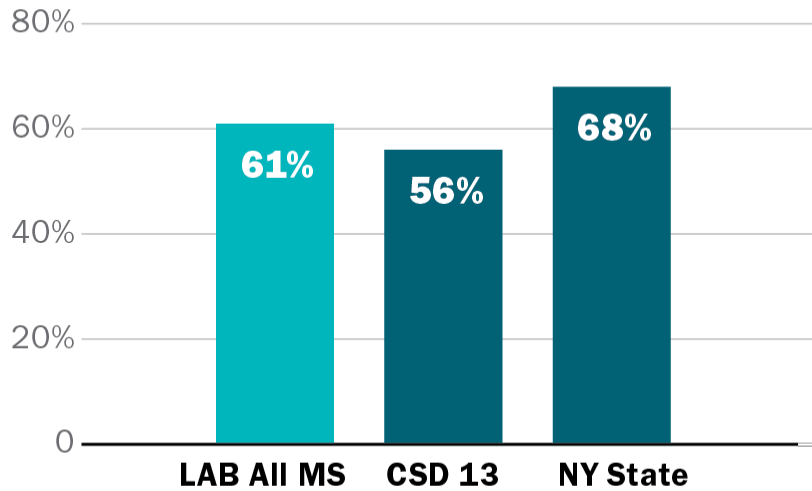
Math Proficiency, All Students (Levels 3–4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for BLCS.

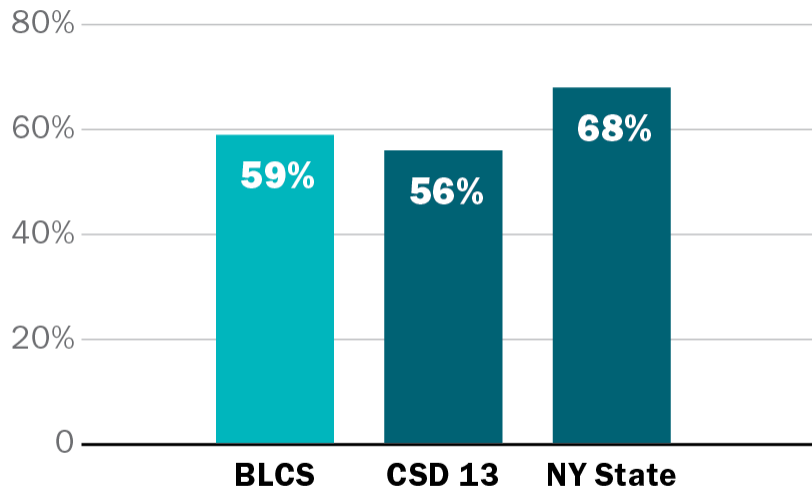
And, the percentage of students earning either approaches, proficient, or advanced levels is higher than that of CSD 13 and approaching that of the state.

Math Proficiency, All Students (Levels 2-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for LAB All MS.

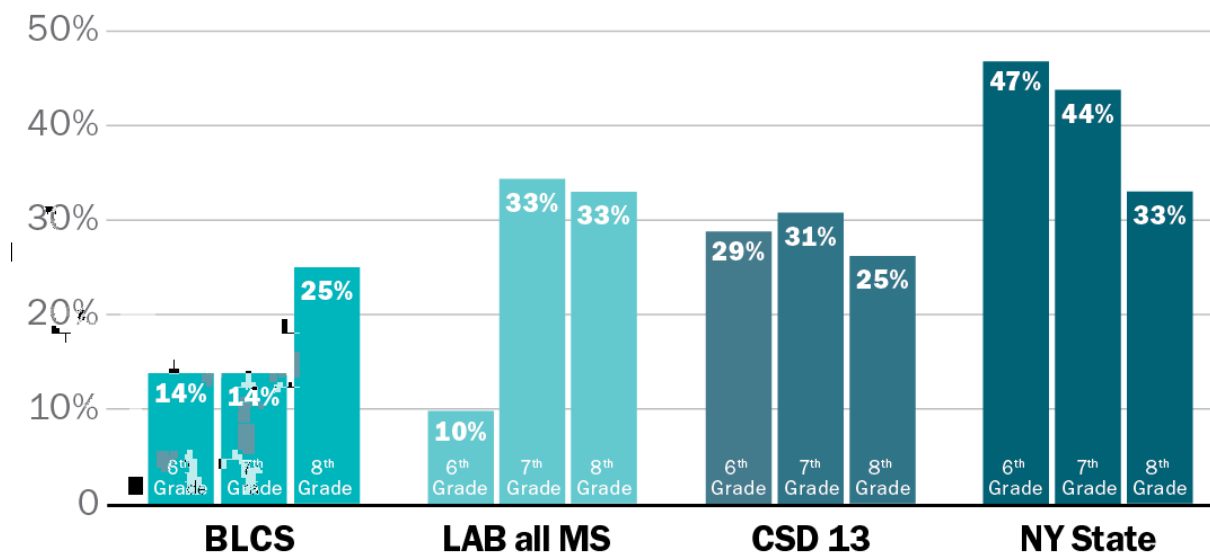
Math Proficiency, All Students (Levels 2-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for BLCS.

Additionally, the percentage of students reaching proficiency is higher in 8th grade than it is in 6th grade for the cohort of all LAB middle school scholars, whereas this is not the case in the comparison groups. (For LAB scholars, the increase averages +23% whereas both CSD 13 and NY state saw declines of -4% and -14% respectively.)

Math Proficiency, All Students (Levels 3–4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for BLCS.

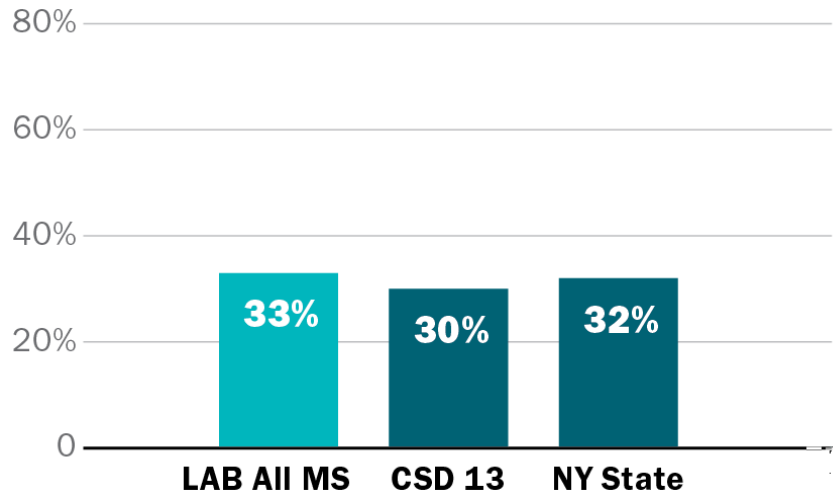
What we always work toward when we bring in students below grade level is a reality where they get closer to proficiency year over year; that is exactly what we see here, whereas our state and district counterparts are not achieving that goal. Nationally, student performance in Mathematics has struggled more in the last year than any other content area, and the impact is compounded for high need student populations⁴. We believe that the demonstrated growth scholars are making is indicative of a trend toward improved proficiency over time, and that replicating the content support strategies we have employed in English Language Arts will bring demonstrable gains in Mathematics as well.

2b (ii) Proficiency - Subgroup School Level Proficiency and 2b (iv) Subgroup Grade Level Proficiency (Mathematics):

Subgroup populations at LAB performed favorably compared to surrounding district CSD 13, as well as New York State.

⁴ See [Appendix B](#): National Context on Mathematics Data and Outcomes

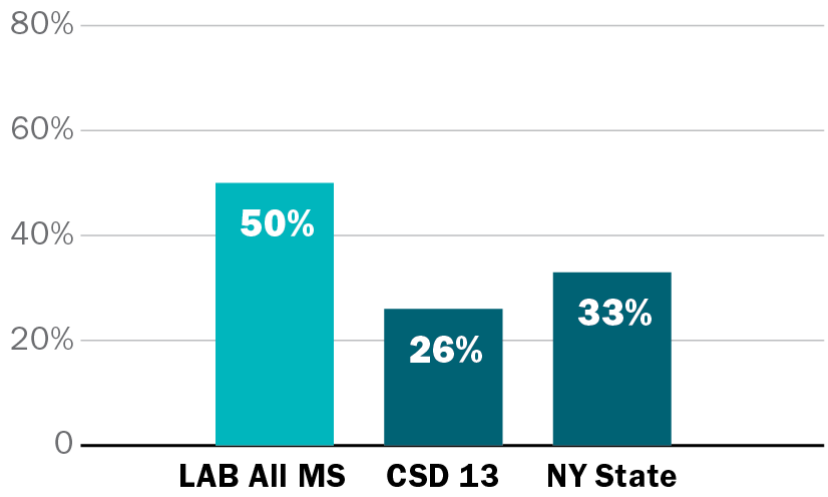
Math Proficiency, SWD (Levels 2-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for LAB All MS.

Of the LAB Students with Disabilities in 2020-21, the percentage of students achieving either approaching, proficient, or advanced levels (levels 2-4) exceeds all comparison groups.

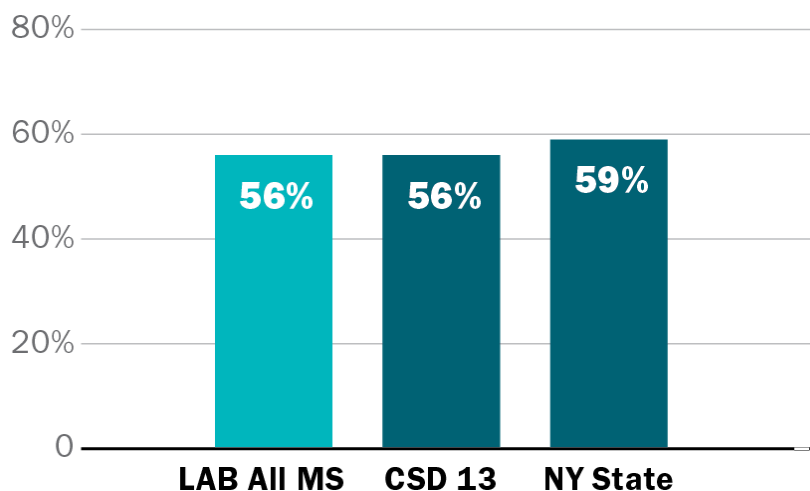
Math Proficiency, ELL (Levels 2-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for LAB All MS.

Of the LAB classified as English Language Learners in 2020-21, the percentage of students achieving either approaching, proficient, or advanced levels (levels 2-4) exceeds all comparison groups.

Math Proficiency, ED (Levels 2-4)



Based on most recent available data: 2018-2019 for CSD13 and NY State, and 2020-2021 for LAB All MS.

Economically Disadvantaged students performed within three percentage points of their counterparts in CSD 13 and NY State.

On all comparative measures, LAB scholars are making rapid improvements toward proficiency over time in Mathematics and at a much greater rate than our counterpart schools.

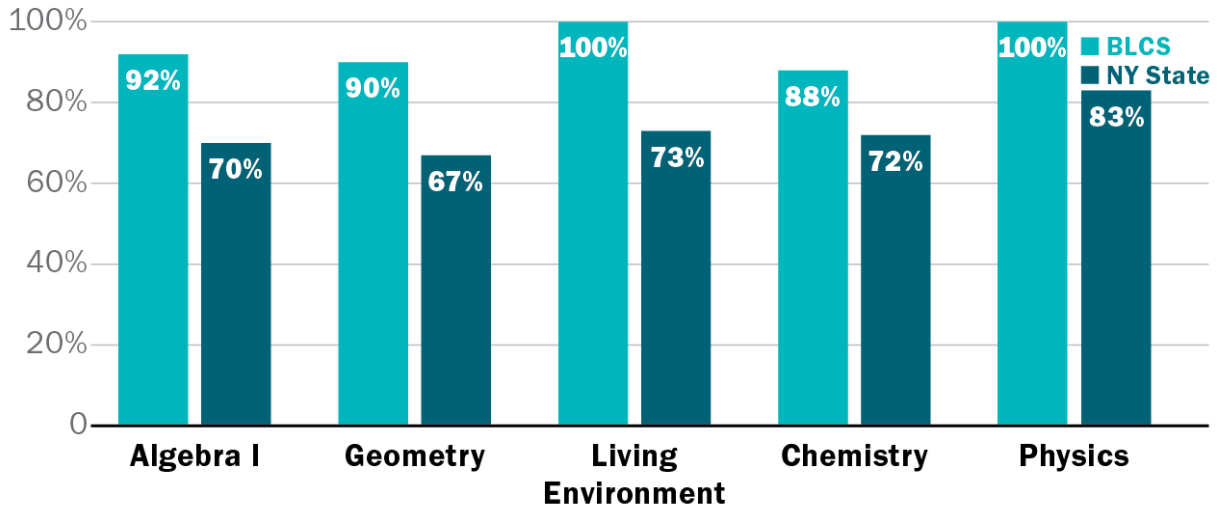
Over the last eighteen months, LAB scholars have made demonstrable gains in the areas of ELA and Mathematics and their proficiency levels in ELA now dramatically outperform the school's historical data, similar schools, CSD 13, and the state overall for all subgroups. In Mathematics, students have made significant growth on all measures, outperforming similar schools overall and beginning to close the achievement gap as compared to schools nationwide according to NWEA MAP. Subgroup populations generally outperform subgroups across the city and state, true to our mission of serving every student. We attribute the significant growth in ELA to a set of content internalization strategies employed over the last two years and as such we have begun to replicate these strategies with Mathematics content as well. With a commitment and focus on content internalization, teacher coaching, and data analysis, we will leverage these early growth measures to improve proficiency and grade level readiness for all scholars.

High School Outcomes

3a. (i) Regents Exams - Aggregate Total Cohort Regents Testing Outcomes:

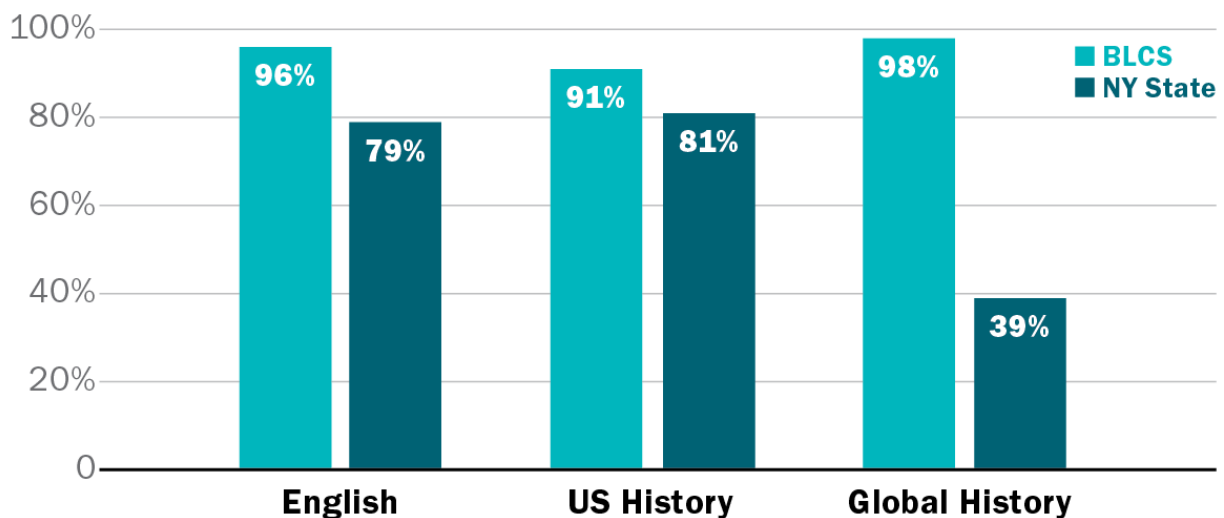
Overall, BLCS scholars take and pass Regents assessments at nearly the same rate as students across New York State.

Regents STEM 2017 Cohort Passing Rates, All Students



Based on BLCS 2017 Cohort Course Participation compared to NY State AP Exam Completion.

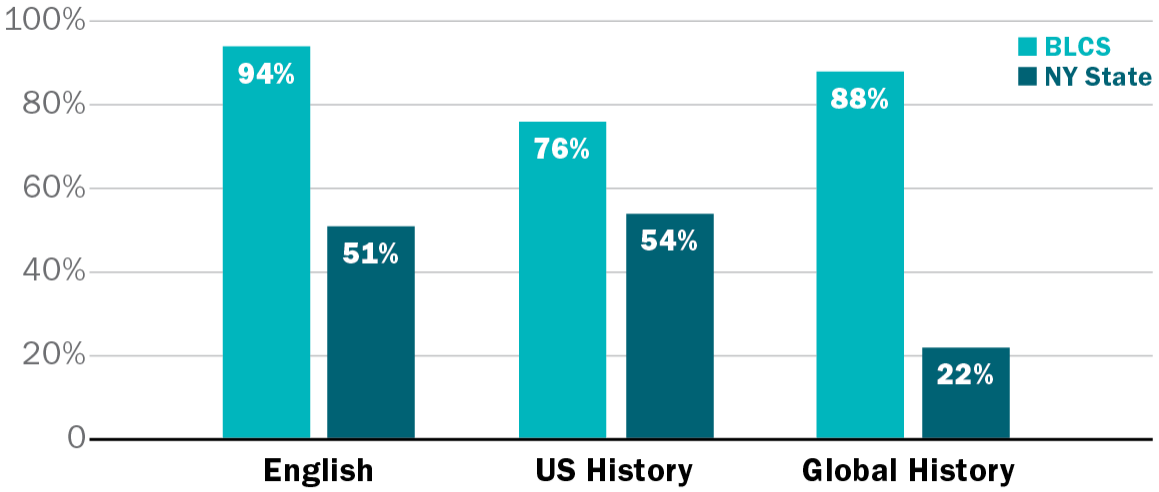
Regents Humanities 2017 Cohort Passing Rates, All Students



Based on BLCS 2017 Cohort Course Participation compared to NY State AP Exam Completion.

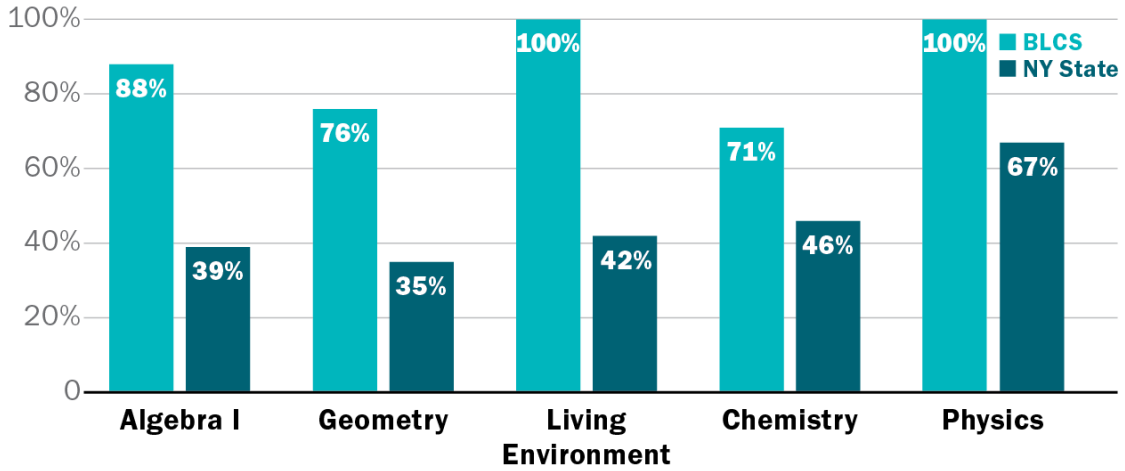
3a. (ii) Regents Exams - Subgroup Total Cohort Regents Testing Outcomes:

Regents Humanities 2017 Cohort Passing Rates, SWD



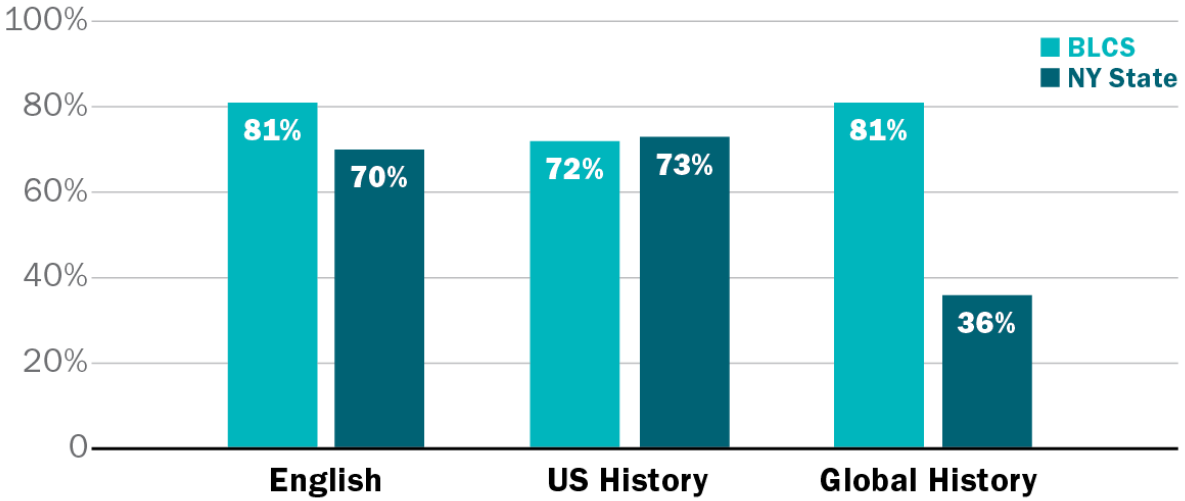
Based on BLCS 2017 Cohort Course Participation compared to NY State AP Exam Completion.

Regents STEM 2017 Cohort Passing Rates, SWD



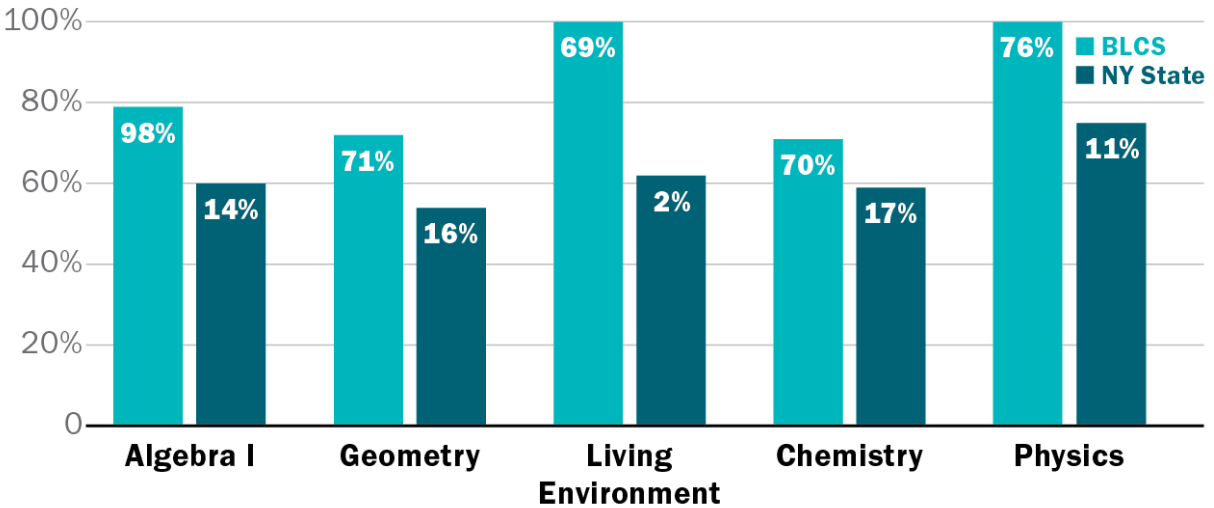
Based on BLCS 2017 Cohort Course Participation compared to NY State AP Exam Completion.

Regents Humanities 2017 Cohort Passing Rates, ED



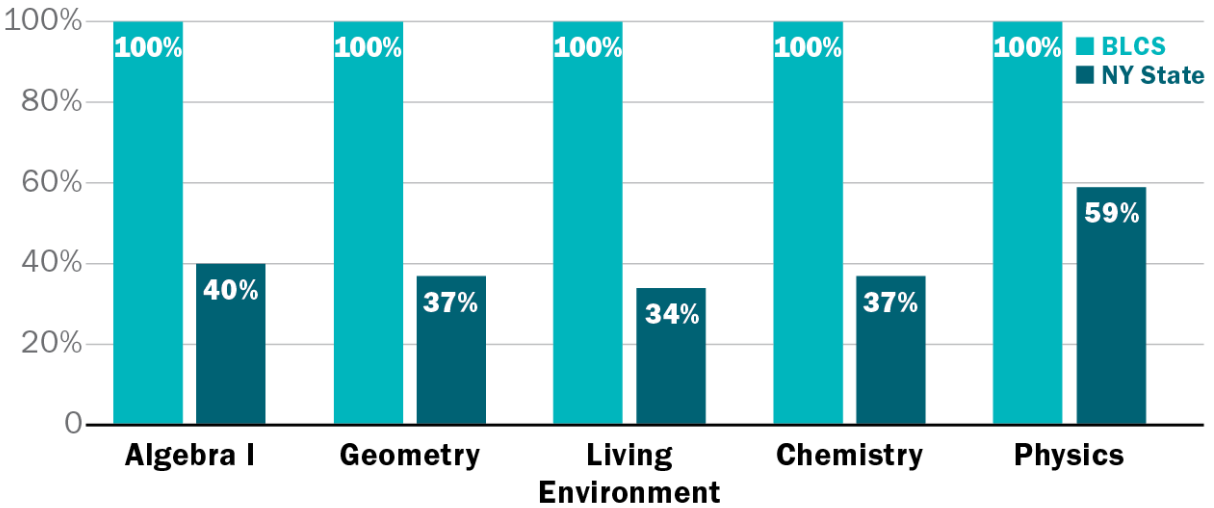
Based on BLCS 2017 Cohort Course Participation compared to NY State AP Exam Completion.

Regents STEM 2017 Cohort Passing Rates, ED



Based on BLCS 2017 Cohort Course Participation compared to NY State AP Exam Completion.

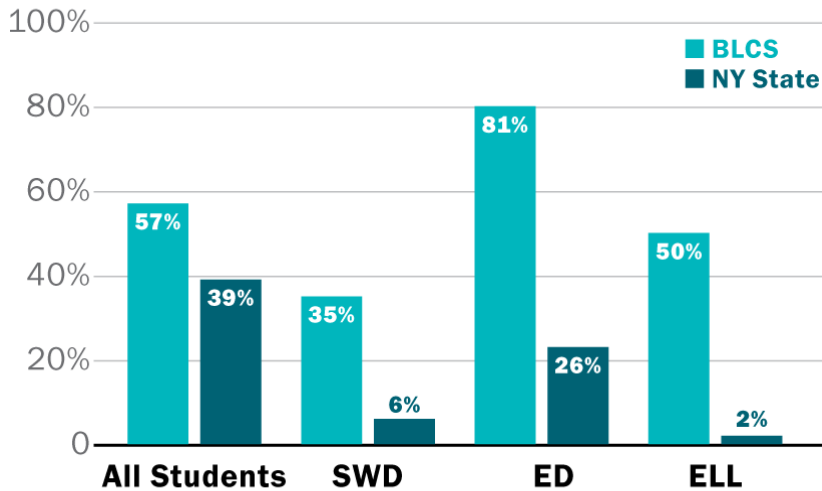
Regents STEM 2017 Cohort Passing Rates, ENL



Based on BLCS 2017 Cohort Course Participation compared to NY State AP Exam Completion.

Students with disabilities, Economically Disadvantaged students, and English Language Learners at LAB all pass Regents Exams at rates higher than those of their counterparts across the state.

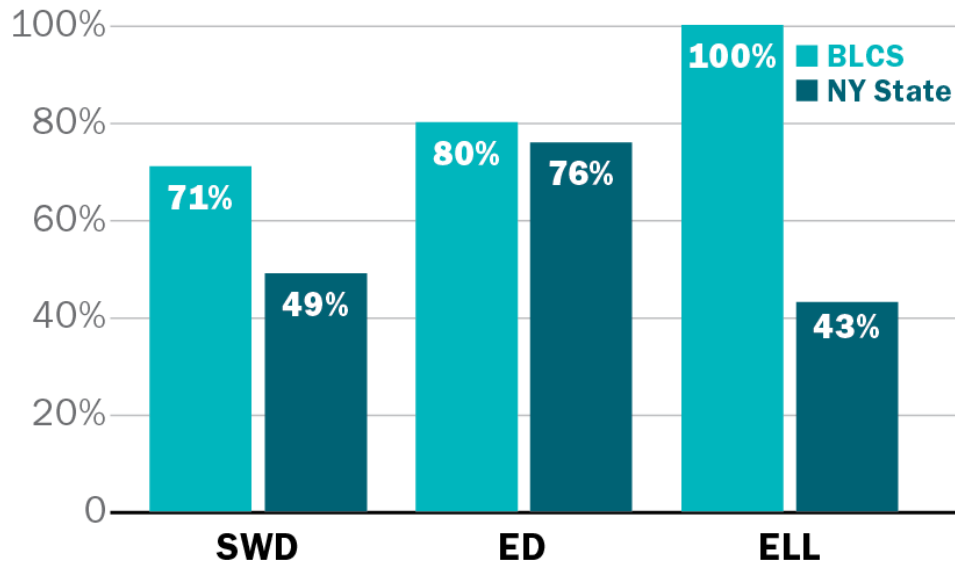
Advanced Regents Designation, 2017 Cohort



BLCS 2017 cohort compared to most recent data (2016 cohort) for NY State.

Students at BLCS also achieve passing rates consistent with Advanced Regents Designations at rates that are significantly higher than students across the state.

Regents Passing Rates, by Subgroup



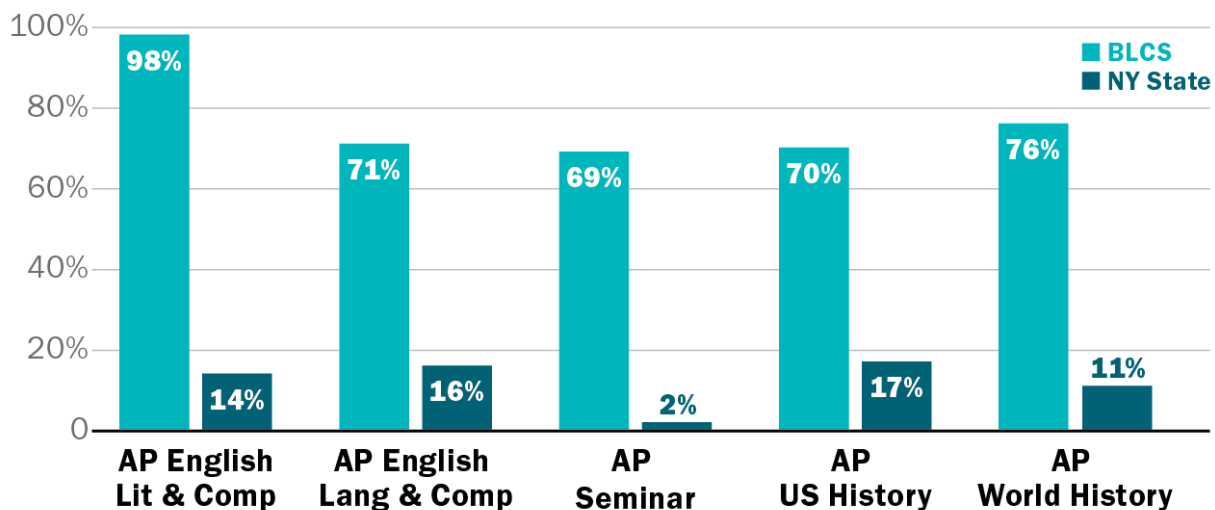
BLCS 2017 cohort compared to most recent data (2016 cohort) for NY State.

3a. (iii) Regents Exams - Aggregate College and Career Readiness:

4-year cohort Regents testing outcomes for ELA and Mathematics, or a NYSED approved equivalent, for graduating students. College and career readiness shall be defined as obtaining a Regents exam score of 75 or higher on the ELA Regents test and 80 or higher on any Regents Math test.

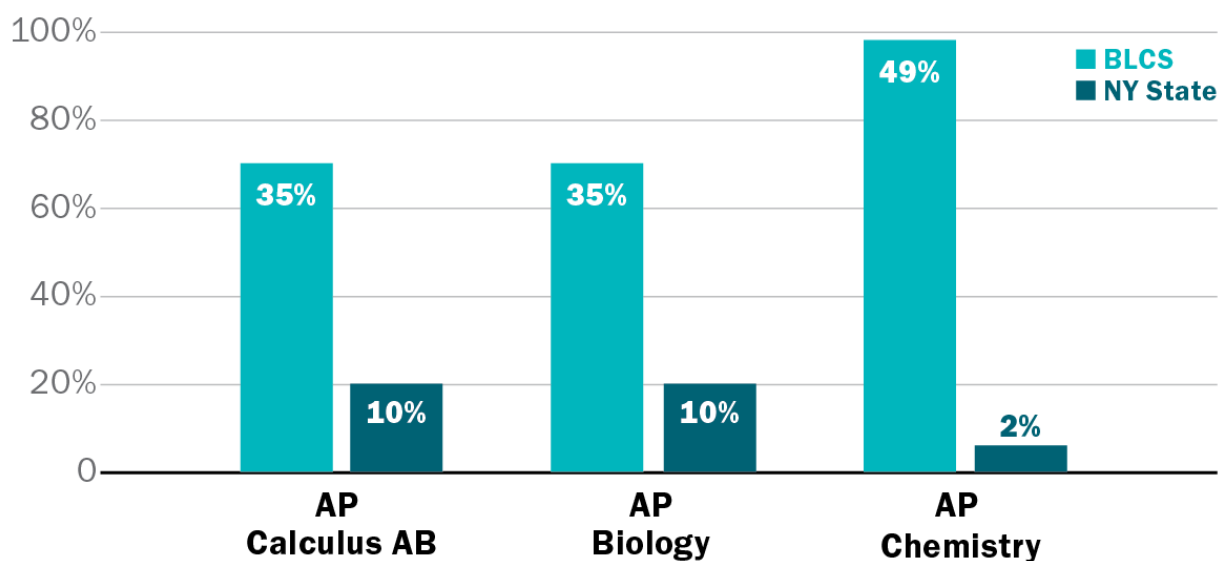
Brooklyn LAB operates an “Advanced Placement (AP) for All” approach as a core part of our high school academic model, which means that all students have the opportunity to take AP courses regardless of their previous educational background. We do this because studies show that AP course completion is positively correlated with college success and our intention is to do everything possible to support college attendance and persistence; the AP assessments are also approved equivalents to demonstrate college readiness.

AP Humanities Course Participation, All Students



Based on BLCS 2017 AP cohort course participation compared to NY State.

AP STEM Course Participation, All Students



Based on BLCS 2017 AP cohort course participation compared to NY State.

Students at Brooklyn LAB complete AP courses at a dramatically higher rate than their peers in schools across the state⁵.

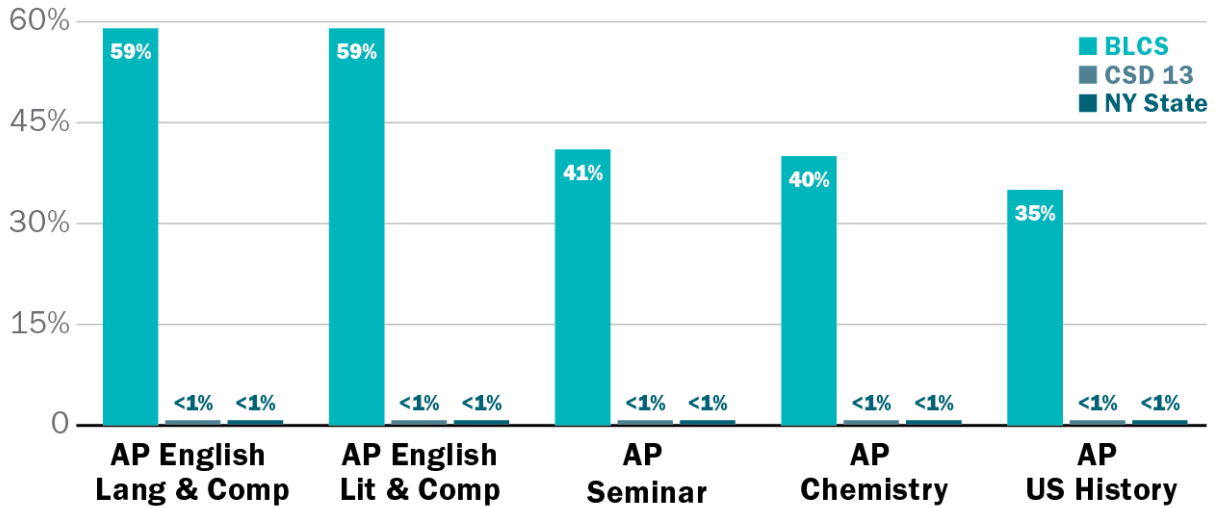
3a. (iv) Regents Exams - Subgroup College and Career Readiness:

⁵ Data Source: <https://data.nysed.gov/APIB.php?year=2020&state=yes>

4-year cohort Regents testing outcomes for ELA and Mathematics, or a NYSED approved equivalent, for graduating student subgroups. College and career readiness shall be defined as obtaining a Regents exam score of 75 or higher on the ELA Regents test and 80 or higher on any Regents Math test.

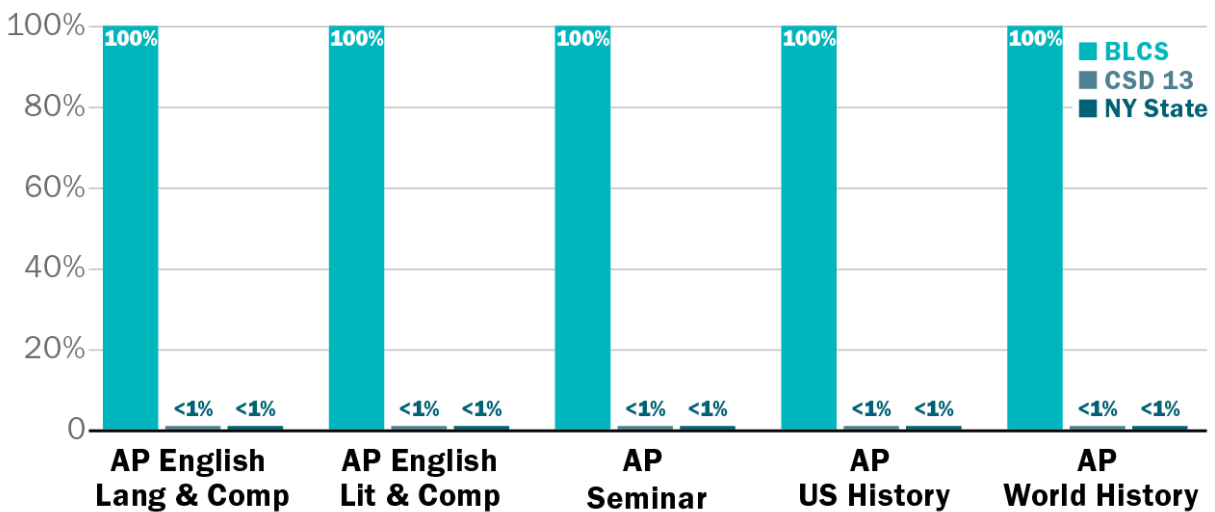
Consistent with our philosophy on “AP for All,” Students with Disabilities and English Language Learners also have the opportunity to participate in AP courses regardless of their educational histories.

AP Course Participation, SWD



Based on BLCS 2017 AP cohort course participation compared to NY State.

AP Course Participation, ELL



Based on BLCS 2017 AP cohort course participation compared to NY State.

The outcome of this approach is that at Brooklyn LAB, scholars with disabilities, and English Language Learners enroll in and complete Advanced Placement courses at exponentially higher rates

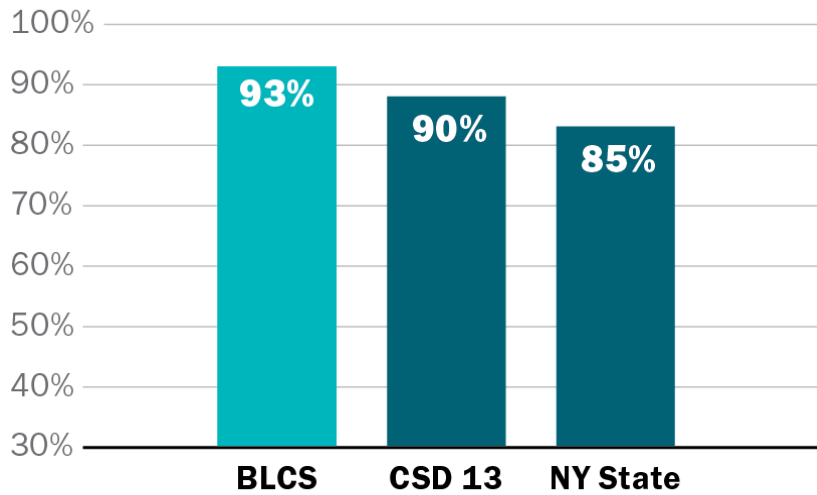
than they would at other schools across the state.

3b. (i) Graduation Outcomes - Aggregate Cohort Graduation Rate:

4-year (August), 5-year (August), and 6-year (June) graduation rate for all students with an emphasis on the final graduation outcome for students.

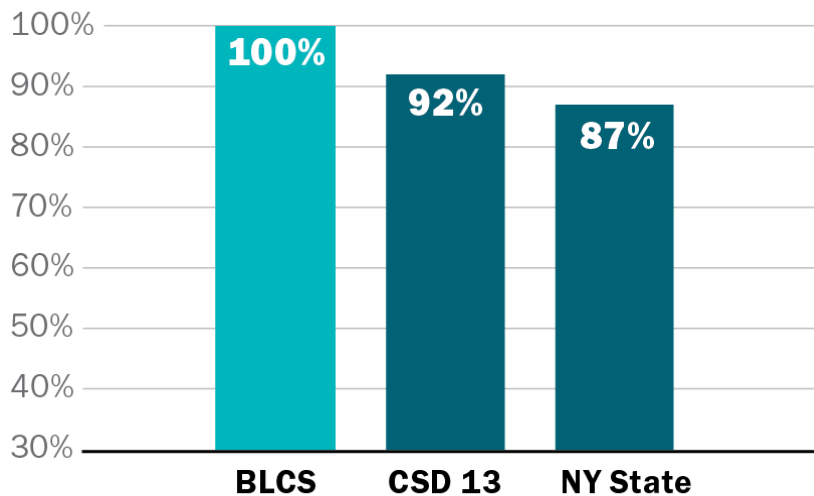
In the spring and summer of 2021, LAB graduated its first graduating senior class which was a crowning moment for our founding team. Of the students who began 9th grade in 2017, 93% of them earned their high school diploma between June and August of 2021. Overall, BLCS High School Graduation Rates Exceeds CSD 13, and New York State. This holds true for our 4-year graduation rate and our projected 5-year graduation rate.

4-Year Graduation Rate, All Students



Based on most recent available data: 2016 for CSD13 and NY State, and 2017 for BLCS.

5-Year Graduation Rate, All Students



Based on most recent available data: 2015 for CSD13 and NY State, and projected 2017 for BLCS.

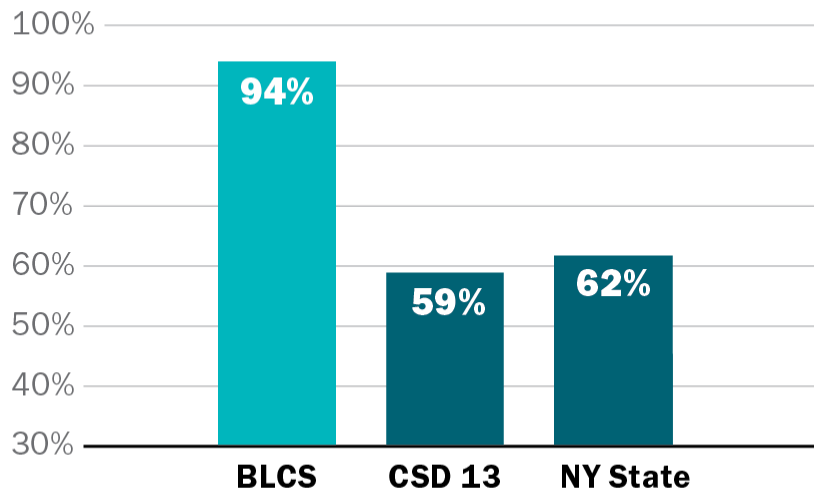
NOTE: The five year graduation rate for BLCS is projected.

Our purpose as an organization is to prepare scholars with the academic foundation, digital literacy, and leadership skills necessary to succeed in college and professional life as they grow as ethical leaders. One of the most critical outcomes that measures our impact on students' college and career readiness and influences our ability to realize our mission is the graduation rate of our high school scholars. We believe this to be one of the most significant accomplishments of the school to date and evidence of years of high quality academic preparation leading our students to earn the credits needed to meet the rigorous New York State graduation requirements and attain a high school diploma.

3b. (ii) Subgroup Cohort Graduation Rate

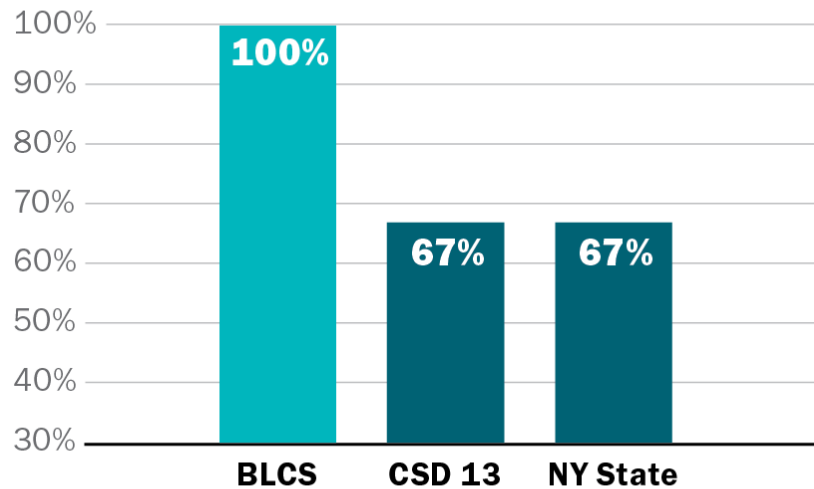
Students with Disabilities graduate at a significantly higher rate from Brooklyn LAB than they do from schools in the surrounding district CSD 13 or the state overall. This holds true both for the 4-year confirmed graduation rate as well as the projected 5-year graduation rate for the 2017 cohort.

4-Year Graduation Rate, SWD



Based on most recent available data: 2016 for CSD13 and NY State, and 2017 for BLCS.

5-Year Graduation Rate, SWD

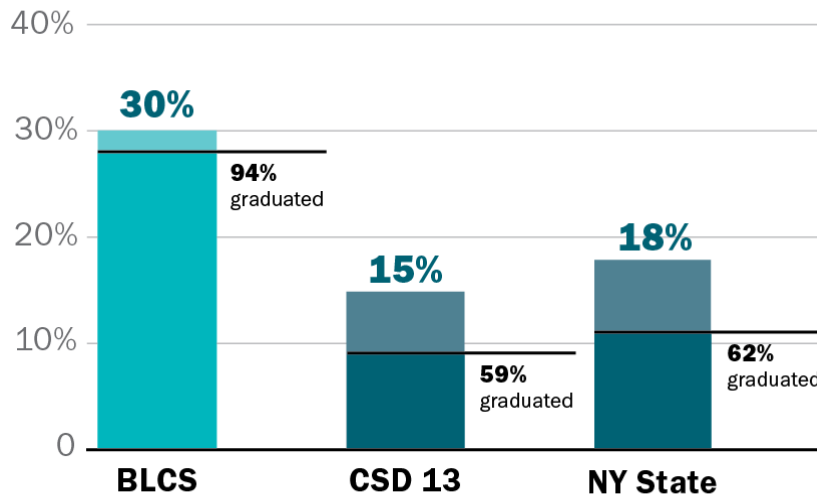


Based on most recent available data: 2015 for CSD13 and NY State, and projected 2017 for BLCS.

NOTE: The five year graduation rate for BLCS is projected.

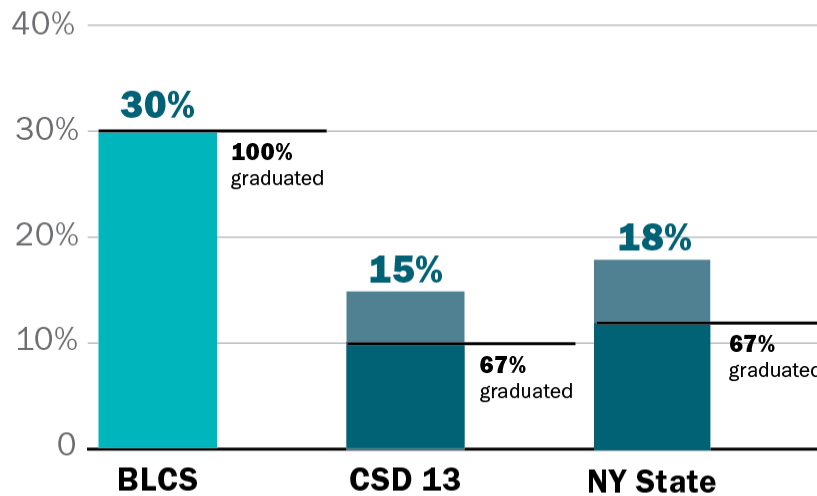
In addition to the fact that Students with Disabilities graduate from Brooklyn LAB at an exceptional rate, Brooklyn LAB serves far more Students with Disabilities than the surrounding district or the state comparison schools.

Percent SWD of Total Students, 4Y Grad Rate



Based on most recent available data: 2015 for CSD13 and NY State, and projected 2017 for BLCS.

Percent SWD of Total Students, 5Y Grad Rate



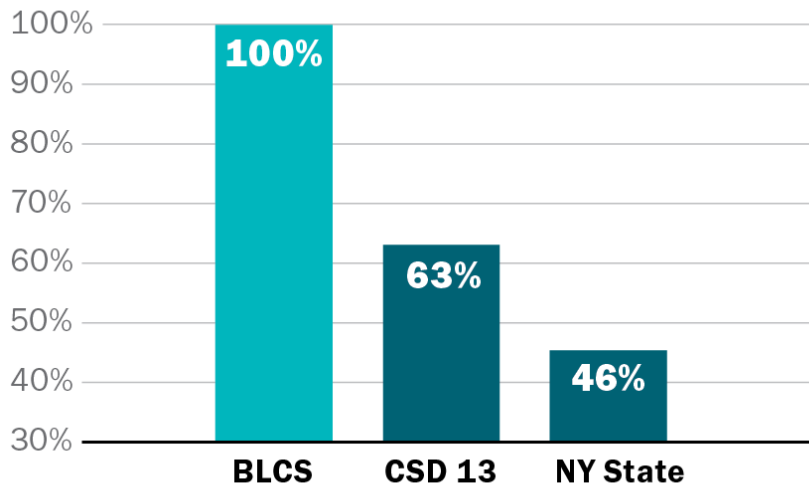
Based on most recent available data: 2015 for CSD13 and NY State, and projected 2017 for BLCS.

NOTE: The five year graduation rate for BLCS is projected.

In addition to graduating Students with Disabilities at a significantly higher rate than comparison schools, LAB also does so while serving Students with Disabilities in a context where they make up a much greater percentage of the overall population than our counterparts do.

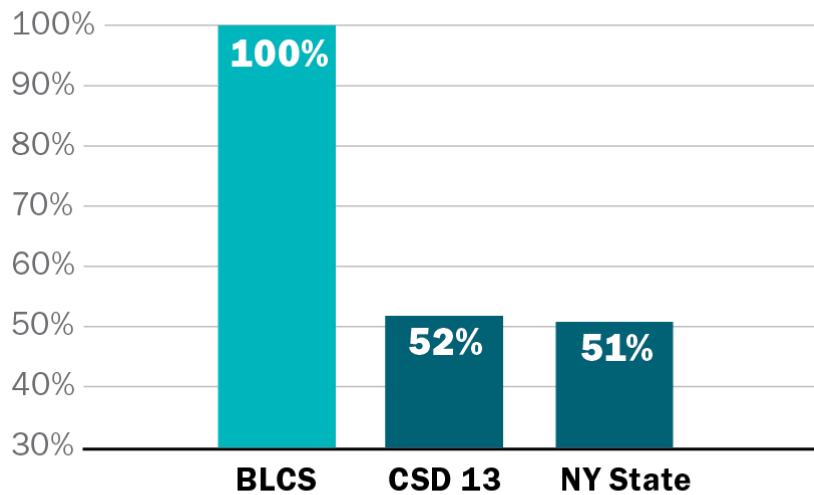
All other subgroup populations at LAB also graduate at much higher rates than the comparison groups.

4-Year Graduation Rate, ELL



Based on most recent available data: 2016 for CSD13 and NY State, and 2017 for BLCS.

5-Year Graduation Rate, ELL

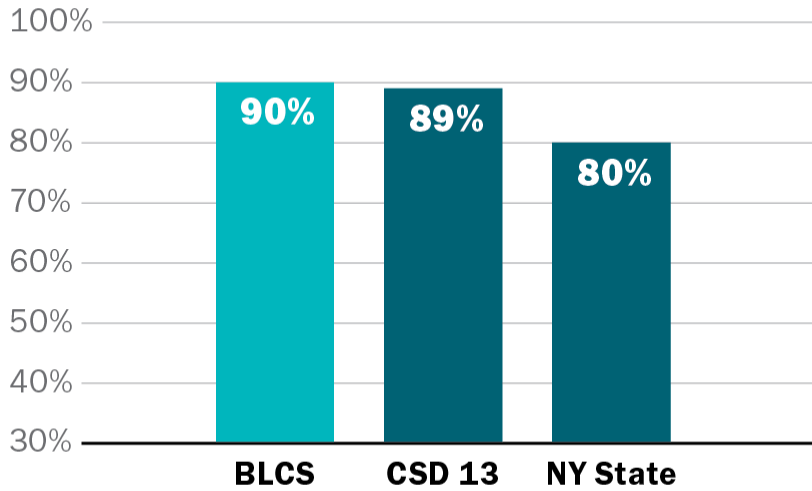


Based on most recent available data: 2015 for CSD13 and NY State, and projected 2017 for BLCS.

NOTE: The five year graduation rate for BLCS is projected.

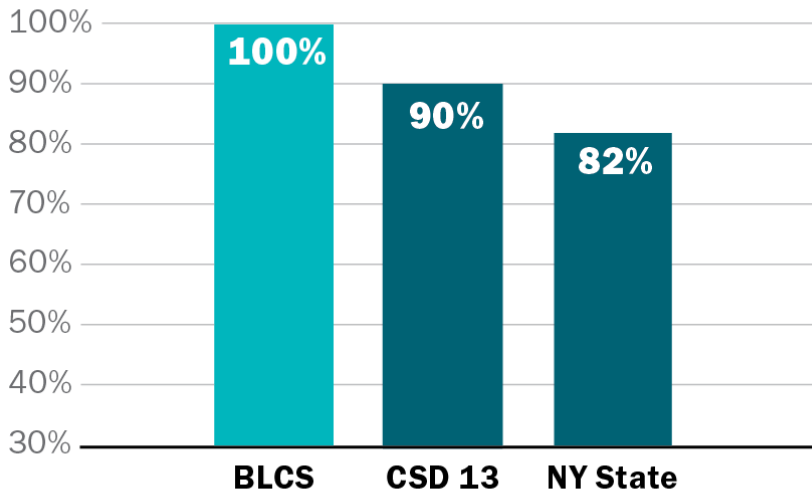
English Language Learners at LAB graduate at demonstrably higher rates than ELL students at other schools in CSD 13 or the state overall.

4-Year Graduation Rate, ED Students



Based on most recent available data: 2016 for CSD13 and NY State, and 2017 for BLCS.

5-Year Graduation Rate, ED Students



Based on most recent available data: 2015 for CSD13 and NY State, and projected 2017 for BLCS.

NOTE: The five year graduation rate for BLCS is projected.

Economically Disadvantaged students also graduate from LAB at higher rates than CSD 13 or the state overall.

In all comparable categories, LAB students show demonstrably higher four year and predicted five year graduation rates than comparison groups. Of particular note is the comparative rate for Students with Disabilities: Students with Disabilities at Brooklyn LAB achieve four year high school graduation at a rate that is *double* that of the state overall and significantly higher than that of the surrounding district.

The surrounding district, CSD 13, also includes high performing selective high school Brooklyn Tech. Brooklyn Tech boasts a 96.24% graduation rate for its 2016 cohort of 1,517 students, and an 84.62% graduation rate for Students With Disabilities. However, the comparable populations of subgroups are extremely small. Brooklyn Tech had 0 English Language Learners in the 2016 cohort and only 13 Students with Disabilities out of 1,517 students. In contrast, LAB's inaugural graduating cohort of 82 students⁶ included 17 Students with Disabilities. Though Brooklyn Tech has proven to be an exceptional school option for some, it is not an attainable option for many of the students LAB serves and is not equipped to support them.

These comparisons clearly demonstrate that Brooklyn LAB is the absolute best option for high school scholars in Brooklyn who are not attending a selective school; LAB is the place where they will earn the necessary credits in order to graduate on time (in four years) at a rate significantly higher than they would in another school.

3b. (iii) Graduation Outcomes - Aggregate On Track to Graduate: Over the past 18 months, Brooklyn LAB has made a significant effort to correct previous patterns of Regents credit attainment. For the 2018 cohort and the 2019 cohort, 100% of scholars are on track to graduate within four years based on credit progress.

3b. (iv) Graduation Outcomes - Subgroup On Track to Graduate: 100% of students in subgroup populations in the 2018 and 2019 cohorts are also on track to graduate in terms of their Regents credit attainment.

Brooklyn LAB has demonstrated success in preparing all students for on time graduation. This is true across cohorts and across subgroups, and in a school setting that serves a higher need population than the surrounding district or the state. The holistic set of accomplishments described in this document demonstrate a wide range of successes the school has achieved while serving a student population that many schools refuse or fail to serve. For the students we serve at Brooklyn LAB, this school is the best possible option to support them toward a path of economic mobility and a lifetime filled with possibility.

⁶ In the first graduating cohort (Cohort of 2017; graduated in 2021), after accounting for seven students who transitioned out of the school in prior years. See [Appendix C](#)

APPENDIX

Appendix A: Similar Schools Comparison

Similar schools were determined by:

1. The starting point was all schools in the state of New York (data source: data.nysed.gov), approximately 5,000 schools and related educational entities.
2. To identify schools serving similar student populations to BLCS, we applied the following criteria:
 - a. Proportion of SWD: 25% to 35% (BLCS average is 30% over past 3 years)
 - b. Proportion of ED students: 70% to 100% (BLCS average is 70% to 98%, over past 3 years)
 - c. Proportion of homeless students: 8% to 25% (BLCS average is 12% to 14%, over the past 3 years.
 - d. Proportion of Black students: 35% to 100% (BLCS average is 75% to 80%, over past 3 years)

Note: BLCS averages noted in parentheses above are from the same NYSED database.

3. 262 schools met the criteria *at least once in the past three years*. The list of selected middle schools is linked [here](#) with the details [here](#). The list of selected high schools is linked [here](#) with the details [here](#).
4. Of these, 82 schools had valid Spring 2019 MS test results, and 43 schools had valid August 2020 HS graduation data (4Y and 5Y grad rates). Their names can be seen in the green Tabs 3A (Col C) and 3B (Col C). This data was used to calculate the similar schools analysis.

Appendix B: [National Context on Mathematics Data and Outcomes](#): Schools, students, and teachers across the country have been impacted by Covid-19. Multiple studies have shown that mathematics results and growth have been severely influenced by Covid-19, resulting in school systems across the country seeing their student data showing less growth and achievement than typical in prior years. The impact has been particularly acute for students who are also students of color and students with a disability.

Appendix C: Notes on the 2017 Graduation Cohort Size and Calculation of True

Denominator: In the Level 2 reports for Brooklyn LAB, the Graduation Cohort of 2017 includes 89 students. However, that number does not accurately reflect the true number of students that were under the care of Brooklyn LAB. The true denominator (ie, cohort size) of our Graduation Cohort of 2017 is actually 82, because each of the remaining seven students pursued (and most completed) high school or alternate pathways in other states or other contexts. Similarly, in Level 2, we see that our Graduation Cohort of 2016 includes six students, even though we did not have a graduating cohort in 2020. One of the students listed here as 'not graduated' in five years, has, in fact, graduated in four years but from a school in another state. Since these students were not in attendance at our school or in our care during the time at which they were expected to graduate, it would be incorrect to include them in our graduation rate calculations.

Appendix D: Total Number of Test Takers for Middle School

COUNTA of LOCATION_NAME		CURR_GRADE_LVL			Grand Total
Subject	DISTRICT_NAME	6	7	8	
- ELA	BROOKLYN LABORATORY CHARTER S	14	5	10	29
	EDMUND W GORDON BROOKLYN LAB	10	29	14	53
- Math	BROOKLYN LABORATORY CHARTER S	14	7	12	33
	EDMUND W GORDON BROOKLYN LAB	7	35	15	57



BROOKLYN LAB
CHARTER SCHOOL

May 31, 2022

██████████
Chief of Staff
Office of Education Policy
New York State Education Department
89 Washington Ave., Rm. 2M
Albany, NY 12234

RE: Brooklyn Laboratory Charter Schools' Faithful and Diligent Commitment to Meeting Enrollment Metrics, Implementing Corrective Actions, and Responding to Community Needs and Feedback

Dear ██████████:

In its Renewal Site Visit Report dated April 12, 2022 (the "Report") the New York State Education Department Charter Schools Office ("CSO") states that Brooklyn Laboratory Charter Schools (the "School") "Falls Far Below" Benchmark 10, Legal Compliance. The purpose of this letter is to address several issues related to this evaluative feedback. The letter focuses on two domains:

- **Enrollment Corrective Action.** Under Indicator (b), CSO states that the School is noncompliant because, "The school has sometimes undertaken appropriate corrective action when required, and/or as requested by the Board of Regents and/or the NYSED CSO but has inconsistently implemented necessary safeguards to maintain compliance with all legal requirements." The section continues, "Brooklyn Lab is still under a CAP for academic underperformance and enrollment deficiencies, and the CSO is currently reviewing the CAP, including actions taken and progress made, and will determine if the CAP is to remain open or be discontinued. The school reports that a flood that occurred in February of 2019 had a negative impact on student enrollment."
- **Community Responsiveness.** Despite the heightened emphasis the Remote Site Visit protocol placed on Community Responsiveness, the School's documentation of successes and efforts in this domain have been all but ignored. This memo summarizes some of the feedback related to Community Responsiveness that CSO received from Cecile Kidd, a sixth year operations team member and the Bursar.

Enrollment Corrective Action

As CSO is aware, Benchmark 9: Enrollment, Recruitment, and Retention reads, "The school is meeting or making annual progress toward meeting the enrollment plan outlined in its



BROOKLYN LAB
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charter and its enrollment and retention targets for students with disabilities, English language learners, and students who are eligible applicants for the free and reduced priced lunch program; or has demonstrated that it has made extensive good faith efforts to attract, recruit, and retain such students. High schools are meeting persistence rates commensurate with the NYSED target.”

As the Director of Family and Community Engagement, I am responsible the following processes related to the management and implementation of Benchmark 9:

- Daily management of the Family Engagement Team
- Check-Ins with the Chief Financial Officer and Executive Director multiple times per week
- Monthly Finance Committee Oversight
- Monthly full Board Oversight
- Periodic full Board oversight in the form of Oversight Memos, Action Plans, and Corrective Action Plans

Because this process is well-documented and has received consistent praise from [REDACTED], the former School Liaison from CSO, it was confusing that the initial Report suggested that the School did not treat full enrollment as a “critical issue” and was instead “focusing exclusively on subgroup enrollment.” That is not an accurate interpretation. Neither is it accurate to state that the School has only inconsistently focused on robust Board oversight or corrective action as it relates to enrollment.

During onsite focus-group interviews with school leaders, participants explained how members of the family and community engagement team analyze recruitment metrics such as leads generated and contacted, and the percentage of those leads that convert into applicants and students enrolled. During the remote focus group interview with board members, trustees articulated enrollment as an ongoing area of concern and focus, with data and strategies reviewed at monthly meetings.

We are confused that the Benchmark 10 feedback seems to state that the Board’s oversight and self-evaluation documentation does not identify full enrollment as a critical issue. The Board has provided extensive documentation related to its oversight of Benchmark 9. As I outlined, I own the process of ensuring that senior leaders meet multiple times per week as an enrollment nerve center to monitor and improve enrollment, recruitment, and retention. Each monthly Finance Committee briefing provides in-depth oversight of Benchmark 9 and each monthly Board meeting provides substantive oversight. The Board has submitted oversight memos and documentation that substantiate that BLCS is making ongoing improvements to its recruitment and retention approach -- including working tirelessly for full enrollment. A few tactics that have been implemented are: Community Organizing, Online Organizing, Canvassing, and Recruitment Team Development.



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There is much to celebrate and recognize about the Board and schools' proactive, successful annual progress towards meeting the enrollment plan outlined in our charter. BLCS enrolls and retains significantly higher percentages of complex learners (both students with disabilities and economically disadvantaged scholars) than our sending district. BLCS has made extensive, good faith efforts to recruit English language learners. BLCS has implemented extensive recruitment strategies and program services to attract and retain English language learners. The primary reasons for departure for all students and students identified as economically disadvantaged, students with disabilities, and English language learners are generally moving out of the city or out of New York State. BLCS's process to evaluate recruitment strategies and program services for subgroup learners leads to ongoing, annual improvement.

A sample of some Benchmark 9 materials recently submitted to our CSO Liaison, which supports our response above, include:

- [January 3, 2019. Board Oversight of Benchmark 9: The Commitment of Brooklyn Laboratory Charter Schools to Effective Enrollment, Recruitment, and Retention of ALL Students, Particularly English Language Learners, Students with Disabilities, and Economically Disadvantaged Students.](#)
- [January 21, 2020. Management Update to the Board on Benchmark 9 Scholar Recruitment and Enrollment Process Improvements](#)
- [March 3, 2020 Brooklyn Laboratory Charter Schools Benchmark 9 Corrective Action Plan](#)
- [May 5, 2021. Board Oversight and School Leadership Management of Benchmark 9: The Commitment of the Edmund W. Gordon Brooklyn Laboratory Charter School to Effective Enrollment, Recruitment, and Retention of ALL Scholars, particularly English Language Learners, Scholars with Disabilities, and Economically Disadvantaged Scholars.](#)
- [May 23, 2021. Benchmark 9 \(Enrollment Recruitment and Retention\) LAB 2020 SED Update](#)

Community Responsiveness

I have concerns that CSO's Report does not take into account the School's documented successes and efforts around Community Responsiveness. Cecile Kidd, a sixth year operations team member and the Bursar, wrote to CSO on May 17, 2022. She affirmed that the school understood CSO's [directive](#) that: "Community-based authorizing is based on the principle that community stakeholder voice, and response to community need, is an integral component of charter school decision-making at all levels. We hope to see evidence of community voice, as well as a commitment to the principles of diversity, equity, and inclusion, as part of the work happening throughout the portfolio of Board of Regents-authorized charter schools."



BROOKLYN LAB CHARTER SCHOOL

Mrs. Kidd's May 17, 2022 email shared that she has been an "integral part of a wider team that works daily to make our school welcoming to immigrant scholars and families. We want to ensure [that newcomers and their families find a home at Brooklyn LAB](#). We work to honor families and support them through adversity and transition. Over the course of the pandemic, I trained our educators and worked with my colleagues to connect with our school's most vulnerable scholars so that we [could understand their family's concerns, needs, and experiences](#). From this place, [I led the charge to develop an approach to](#) equitable preparation, helping our school community build the muscles we needed to adapt, refine, and determine priorities appropriately during this crisis. When [our school community experienced more than our fair share of loss over the past two years](#), I worked to ensure that we came together as a village. Since then, we have continued to strive to remain emotionally and mentally close: communicating our love and solidarity, listening to families and their wishes, sending care packages and meals, providing resources on how to cope with grief and trauma, and generally just being a source of stability through the storm."

Mrs. Kidd's email shared that she was a bit disappointed with CSO's draft Renewal Site Visit Report for BLCS, because the extensive evidence of community responsiveness and community-based authorizing submitted by our School to CSO appeared to be almost absent from that report. The same is true of the final Report the School received. This is despite public recognition from CSO for the School's important work in this domain -- which Mrs. Kidd is a critical part of leading.

Mrs. Kidd concludes that the School has provided extensive evidence of community stakeholder voice and responsiveness to stakeholder needs, and provides a sampling of what we have done to support vulnerable communities:

- [Community Support: A summary of Brooklyn LAB's community support initiatives](#)
- [Brooklyn LAB SY 20-21 Highlights A summary of Brooklyn LAB's Community Responsiveness highlights from the 2020-2021 school year](#)
- [May 11, 2021. Community Responsiveness: The commitment of Brooklyn Laboratory Charter School to the principle that community stakeholder voice, and response to community needs, is an integral component of charter school governance, operations, and decision making.](#)
- Spring 2021 [BLCS Community Responsiveness: A summary of Brooklyn LAB's community responsiveness initiatives](#)
- [BLCS Community Support: A summary of Brooklyn LAB's community support initiatives](#)
- [Brooklyn LAB Resources Related to Communication Focused Operational Improvement](#)

The following three resources also highlight the degree to which our School took community responsiveness seriously during the pandemic.



BROOKLYN LAB CHARTER SCHOOL

- **Pre-drafted Family Communication aligned to the Greenbook / Redbook -- to ensure that the “in the moment” communication to families and staff about a positive case is fully professional, consistent, and effective.** [Engage Equitably: Brooklyn Laboratory Charter Schools \(LAB\)](#) and the [Donovan Group](#) have worked with the [Educating All Learners Alliance \(EALA\)](#) to create a new series of equity-focused communications resources to promote honest, transparent, equitable, freely accessible and public health-informed communication templates and guidance. This resource aims to help our school communicate more effectively with diverse stakeholders during these challenging times and includes templates for emails to families and staff, website language, phone and robocall scripts, video scripts, and news releases. We worked in partnership with Alyssa Bilinski (Harvard School of Public Health), Digital Promise Learner Variability Project, InnovateEDU, the National Center for Learning Disabilities, the Parabola Project, and the Center for Learner Equity.
- **Training Materials for LAB Staff to cultivate more consistent, effective communication.** [COVID-19 School Communications Toolkit](#): Brooklyn LAB partnered with [McPherson Strategies](#), to understand what matters, what works, and what doesn't work in school communications at this moment. The school sought guidance from over 50 people from more than 25 organizations, including many members of the LAB school community, communications experts, child development experts, learning science specialists, school leaders, teachers, and school community members from the [Educating All Learners Alliance \(EALA\)](#). This toolkit outlines what we learned and serves as a resource that establishes norms for the communication school communities deserve. The [COVID-19 School Communications Toolkit](#) is organized around five core principles that represent the communications our school communities deserve. Within each principle, we include practical recommendations school leaders can apply now to communicate better during the COVID-19 pandemic and beyond. The guide also discusses how to use communications to address ongoing, deeply ingrained systemic challenges like racism and able-ism. Together, these principles and practices will help our school to establish new norms and a school culture centered around equity so that every student at our school can learn and thrive.
- **A Scheduling Guide that translates Legal Compliance parameters on SPED and COVID health protocols into a usable guide.** [The Instructional Program Scheduling Map](#): explored early directions in staff scheduling, class configurations, and planning considerations for general education and specialized settings, including those for special education such as ICT classroom, 15:1 and 12:1:1. It also explores the use of innovative human capital solutions such as the use of community educators and success coaches to support social-emotional learning for students. The Scheduling Map, which reflects insights and addresses early concerns from public health experts, students, teachers, parents, guardians, and schools, was developed through a collaboration with InnovateEDU and several partners: Dezudio, PBDW Architects, EdTogether, the National Center for Special Education in Charter Schools (NCSECS), Public Impact, TNTP, and the Mary Lou Fulton Teachers College at Arizona State University.



BROOKLYN LAB
CHARTER SCHOOL

I respectfully request that CSO review and revise Benchmarks 6 and 10 with these strengths in mind. And, I kindly request a more balanced and appropriate evaluation of our School's work.

Sincerely,

DocuSigned by:

Jonathan Flynn

ACC236C30E7A4F4...

Jonathan Flynn

Director of Family and Community Engagement

Director of Public Affairs

Brooklyn Laboratory Charter Schools



Eric Tucker <eric@brooklynlaboratoryschool.org>

Outreach to our Community-Based Authorizer Liaison RE: Community Responsiveness

Cecile Kidd <ckidd@brooklynlaboratoryschool.org>

Tue, May 17, 2022 at 8:17 AM

To: [REDACTED]@nysed.gov

Bcc: eric@brooklynlaboratoryschool.org

Dear [REDACTED]

I hope this email finds you well. My name is Cecile Kidd, and I am entering my sixth year as Bursar and a member of the shared service and operations team at Brooklyn LAB.

In these roles, I have been an integral part of a wider team that works daily to make our school welcoming to immigrant scholars and families. We want to ensure [that newcomers and their families find a home at Brooklyn LAB](#). We work to honor families and support them through adversity and transition.

Over the course of the pandemic, I trained our educators and worked with my colleagues to connect with our school's most vulnerable scholars so that we [could understand their family's concerns, needs, and experiences](#). From this place, [I led the charge to develop an approach to](#) equitable preparation, helping our school community build the muscles we needed to adapt, refine, and determine priorities appropriately during this crisis.

When [our school community experienced more than our fair share of loss over the past two years](#), I worked to ensure that we came together as a village. Since then, we have continued to strive to remain emotionally and mentally close: communicating our love and solidarity, listening to families and their wishes, sending care packages and meals, providing resources on how to cope with grief and trauma, and generally just being a source of stability through the storm.

I share this context because Brooklyn LAB is now preparing for the school year 2023 renewal application and evaluative site visit cycle, and I am a bit disappointed about the Charter Schools Office's (CSO's) draft Renewal Site Visit Report for BCLS. It seems that the extensive evidence of community responsiveness and community-based authorizing submitted by our school to CSO appears to be almost absent from the recent reports. This is despite public recognition for the school's important work in this domain -- which I am a critical part of leading.

The CSO has [outlined](#) the following: "Community-based authorizing is based on the principle that community stakeholder voice, and response to community need, is an integral component of charter school decision-making at all levels. We hope to see evidence of community voice, as well as a commitment to the principles of diversity, equity, and inclusion, as part of the work happening throughout the portfolio of Board of Regents-authorized charter schools."

As you can see from the description I have shared about our response to the pandemic, it's my belief—shared by many others in our school community—that BCLS has done just this. And yet, it's not reflected in

your report.

In order to inform our preparation for the SY23 renewal cycle, I humbly ask: What can our school community do to ensure that our extensive and meaningful community responsiveness work is fully considered and included in the upcoming EWG BLCS renewal process?

Our school has provided extensive evidence of community stakeholder voice and responsiveness to stakeholder needs. Here is just a sampling of what we have done to support vulnerable communities:

- [Community Support: A summary of Brooklyn LAB's community support initiatives](#)
- [Brooklyn LAB SY 20-21 Highlights A summary of Brooklyn LAB's Community Responsiveness highlights from the 2020-2021 school year](#)
- [May 11, 2021. Community Responsiveness: The commitment of Brooklyn Laboratory Charter School to the principle that community stakeholder voice, and response to community needs, is an integral component of charter school governance, operations, and decision making.](#)
- Spring 2021 [BLCS Community Responsiveness: A summary of Brooklyn LAB's community responsiveness initiatives](#)
- [BLCS Community Support: A summary of Brooklyn LAB's community support initiatives](#)
- [Brooklyn LAB Resources Related to Communication Focused Operational Improvement](#)

I think we as a school should receive recognition and credit for this work. We believe the evidence we provided aligns with the authorizer's stated priorities to "see evidence of community voice, as well as a commitment to the principles of diversity, equity, and inclusion." If this evidence is not sufficient or on target, please provide examples of ways we can better share our important work.

Best,

Cecile Kidd

Bursar, Brooklyn Laboratory Charter Schools

--

Cecile Kidd

Bursar

Brooklyn Laboratory Charter Schools

ckidd@brooklynlaboratoryschool.org

Phone: 347-986-9516

Fax: 914-612-9127



BROOKLYN LAB
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May 31, 2022

██████████
Chief of Staff
Office of Education Policy
New York State Education Department
89 Washington Ave., Rm. 2M
Albany, NY 12234

RE: Brooklyn Laboratory Charter Schools' Stewardship of Public Funds, Adherence to Procurement Guidelines, and Dispute with Genuine Foods

Dear ██████████:

In its Renewal Site Visit Report dated April 12, 2022 (the "Report") the New York State Education Department Charter Schools Office ("CSO") states that Brooklyn Laboratory Charter Schools (the "School") "Falls Far Below" Benchmark 10, Legal Compliance. The purpose of this letter is to address one issue that CSO cites as support for that conclusion. CSO states that the School is noncompliant because in May 2019 a vendor for the School called Genuine Foods complained to CSO about the School's nonpayment of certain invoices. That was not an oversight or an act of noncompliance – on the advice of counsel and with NYSED's guidance, the School decided to dispute invoices that were inconsistent with the School's contract and the expectations of the school food program and that is why they were not yet paid.

The School ultimately settled its dispute with Genuine Foods and contracted with a new vendor pursuant to a competitive bidding process. The Board and the School should be commended, not criticized, for recognizing when a vendor was not living up to its contractual and professional obligations, and for ensuring that public funds were disbursed appropriately.

The Board and the School demonstrated good stewardship of public funds, appropriate Board oversight, strong internal controls and faithfulness to the law and the School's charter, not violations of them.

As outlined in the School's Financial Policies and Procedures Manual, the School is committed to applying internal controls, fiscal responsibility, transparency and accountability in accordance with the generally accepted accounting principles (GAAP) practiced in the United States of America and the rules and regulations established by the Financial Accounting Standards Board (FASB). Furthermore, the Board and management team are committed to financial management that adheres to all the relevant laws and regulations that govern charter schools within the City and State of New York. As a nonprofit organization, the School is

entrusted with funds granted by Federal, State, and City government agencies as well as corporations, philanthropic foundations and individual contributors.

The School implements a system of internal controls designed to safeguard assets, promote operational efficiency, minimize waste, fraud and theft, and ensure accurate accounting data. By insisting that internal controls are implemented even if it is uncomfortable or inconvenient, the School maintains accountability, transparency, and accuracy in its day-to-day financial transactions.

Consistent with the Financial Policies and Procedures Manual, the School procures only those items and services required to fulfill our mission and/or fill a bona fide need. Procurement is made using best value contracting, which entails assessing the best value considering quality, performance, and price. Further, the School works to ensure that procurement is:

- impartial and based on the merits of supplier and contractor proposals and applicable considerations such as delivery, quantity, quality.
- in the best interests of the School and its funding sources and in accordance with any restrictions as applicable.
- from reliable vendors and in a manner that obtains maximum value for all expenditures.
- conducted in a manner that places the School above suspicion of unethical behavior at all times and avoids any conflict of interest, transactions with related parties, or even the appearance of a conflict of interest in the School supplier relationships.
- from contractors who possess the technical and financial resources necessary to provide the services / goods.

In addition, when the cost of goods and services is over the specified thresholds, competitive bidding must be based on the procedures outlined in the manual.

As the School has explained previously, the School had serious concerns with Genuine Foods's discharge of its contractual obligations. It is the School's duty and responsibility to ensure that any irregularities emerging from vendors are addressed. This includes impropriety in handling or reporting of transactions, any dishonest act, and inappropriate use of records and equipment. When contractor fraud is suspected, it must be reported to the Board directly and resolved proactively and directly.

The School had no choice but to challenge Genuine Foods's invoices. While the School is not at liberty to discuss the details of its financial operations, we believe that CSO has sufficient information to understand and appreciate that the School's dispute with Genuine Foods is evidence of compliance, not noncompliance, with the law and its own internal procedures.

Best,

DocuSigned by:



Sheryl Gomez

Chief Financial Officer

Brooklyn Laboratory Charter Schools



BROOKLYN LAB
CHARTER SCHOOL

May 31, 2022

██████████
Chief of Staff
Office of Education Policy
New York State Education Department
89 Washington Ave., Rm. 2M
Albany, NY 12234

Dear ████████:

As you know, I am the Executive Director and Co-Founder of Brooklyn Laboratory Charter Schools (the “School”). I am writing this letter to address certain errors and inaccuracies in the NYSED CSO 2021-2022 Renewal Site Visit Report for BoR-Authorized Charter Schools under the 2019 Charter School Performance Framework, dated April 12, 2022 (the “Report”) and to describe the arbitrary and irreparable harm that the School will suffer if the Report is published in its current form. I share this feedback in my capacity as Executive Director, and on behalf of the school community. I am also writing to document the concerns the School has that this Report is being finalized and published in this form in the midst of an ongoing investigation of alleged disparate treatment that senior staff at the School have experienced at the hands of CSO, and to describe some of the ongoing frustrations we have experienced in communicating and engaging in the evaluative process with CSO.

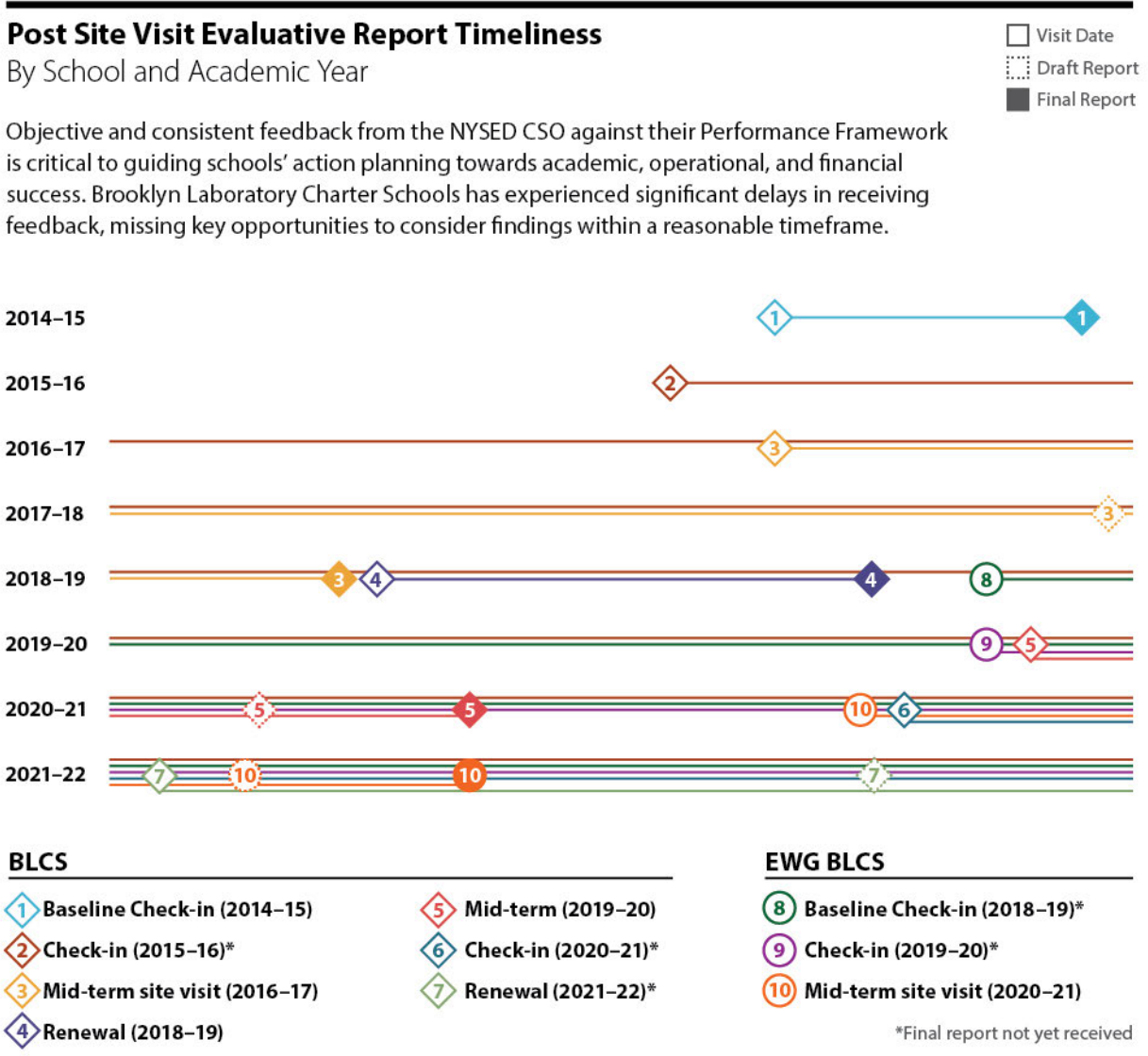
Before I proceed, I do want to state that I appreciate your offer to connect on a call. While I am of course a great proponent of constructive dialogue, in this instance I believe that it is best for me to put my thoughts down in writing, because I do not want them to be further misinterpreted or ignored. While our school would value the opportunity to connect, I have also found that the words of my colleagues who strive to communicate strengths and solutions have and will be used against them. I concluded that this letter is likely the most accurate, direct, and timely channel available to share the concerns of a school community I admire and love.

CSO’s Untenable Delays and Other Process Issues

The School and its Board have repeatedly expressed the unworkability and unevenness of the application of CSO’s evaluative process - its Monitoring Plan - to our school community and staff. For one thing, CSO’s feedback is chronically late or undelivered altogether. This has resulted in unproductive and misleading communication patterns with CSO, has prevented the School from hearing about and expeditiously resolving issues CSO has raised, and consequently has impeded the School’s progress in key benchmark areas. The School has enthusiastically devoted considerable resources to prepare for and participate in site visits, both virtual and on-site, only to find that it is missing critical opportunities to consider CSO’s findings and feedback within a reasonable timeframe, particularly at key points of the School’s existence such as in years one and

two of operation, and when approaching high stakes decisions such as renewal.

The industry norm for delivery of feedback and reports ranges from weeks to several months, but as shown in the figure below, the time elapsed between CSO’s site visits and the issuance of its reports has in some instances been several years. And to this day, the School has still not received final reports from CSO’s 2015-2016 Check-in, from its 2018-2019 Baseline Check-in, or from its 2019-2020 Check-ins for BLCS and EWG BLCS. In some instances, CSO purported to hold the School accountable for failing to implement recommendations that CSO had yet to deliver. This has made it difficult, if not impossible, for the School to incorporate CSO’s feedback into its ongoing operations, or to make effective changes to systems that CSO may have identified.



The School is concerned that this backlog undermines the authorizer’s efforts to ensure evaluative feedback is: timely and up-to-date, relevant, delivered, actionable, clear, reasoned and stable, beneficial to students, and consistent with the public interest.

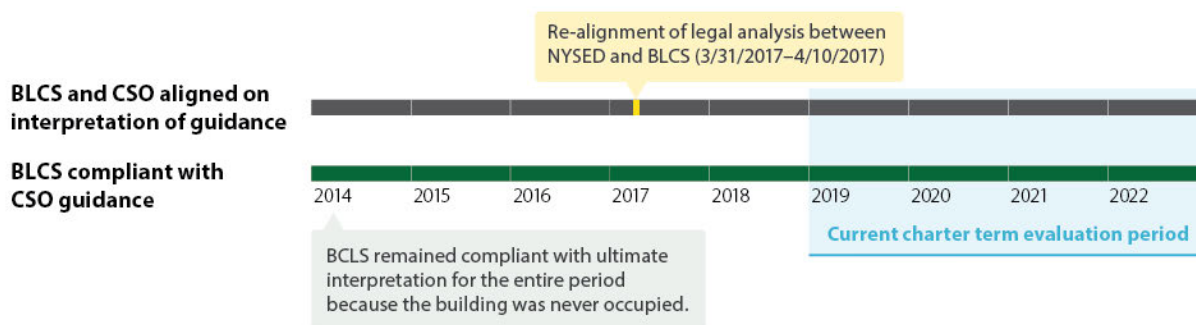
CSO’s Untimely Complaints and Refusal to Consider Evidence Presented by the School

CSO also routinely ignores evidence and explanations the School provides. And although the Report is supposed to be limited to an evaluation of the current charter term (July 1, 2019 to June 30, 2022, the “Charter Term”) CSO inexplicably continues to raise issues that were put to bed over five years ago. For example, in the Report, CSO makes reference to the School “never submitt[ing] a material request to the CSO for approval to educate students in the same grade at more than one site, and this would not have been granted as this is a violation of Education Law §2853(1)(b-1).” CSO states that the School was “formally notified of this violation *in 2017*,” and “reports that it *currently* operates in compliance with the education law.” (emphasis added). The School has not even had students or adults in the building in question for over four years.

These statements should be removed from the Report. A purported concern from 2017 is well outside the Charter Term. Even the statement that the School only “currently” operates in compliance with the education law is false. The School has always been in compliance with Education Law Section 2853(1)(b-1).

As the School and the Board have also explained, the 2017 Notice of Concern was prospective and was completely unfounded. In SY2015-16, CSO approved the School’s plan to lease space at 25 Chapel Street, a location adjacent to the School’s facilities at 240 Jay Street. After consultation with several law firms prior to this lease being negotiated, the School’s legal analysis was that the Jay Street and Chapel Street buildings, being adjacent to one another, qualified as a single site (as do numerous other charter schools in New York). As shown in the figure below, in 2017, the School learned after completing the build out that CSO had a different legal interpretation. While we firmly disagreed with and were confused by the position CSO took midstream, the School nonetheless devoted millions of dollars and thousands of hours to ensure constant, uninterrupted and full operational compliance with CSO’s evolving interpretation of the law.

Notice of Concern Timeline



Importantly, the Chapel Street building was not even used for classrooms during the course of this Charter Term. At most, during the previous Charter Term, the School and CSO had different interpretations of how that building might be used in the future. CSO must stop tarnishing the School’s reputation by implying, untruthfully, that the School violated the

Education Law in 2017.

Concerns Related to CSO's Unfair and Discriminatory Treatment of the School and its Staff

As you are aware, following CSO's release of Mid-Term and Renewal Site Visit Reports, the School received a complaint of disparate treatment by CSO from senior staff members, who alleged that oral and written statements that CSO personnel made about them and their work product were arbitrary and demonstrably false, and that CSO does not make similar statements about predominantly white and non-immigrant staff at other charter schools overseen by CSO.

The staff members documented what they described as persistent, inaccurate, delayed and false and misleading statements made about their team's professional performance in CSO's reports. Each staff member opposed CSO's conduct and reported that inaccurate public statements about their work has adversely affected and risks further affecting the terms and conditions of their employment and future employment prospects.

Separately, some of the school's staff members also remarked that CSO personnel seemed uncomfortable or unwilling to be around them, and resisted interacting with them in person. The School has documented a CSO representative's refusal to meet with the School's staff members in person, allegedly because of pandemic concerns, while conducting in-person meetings with other schools in the same time range.

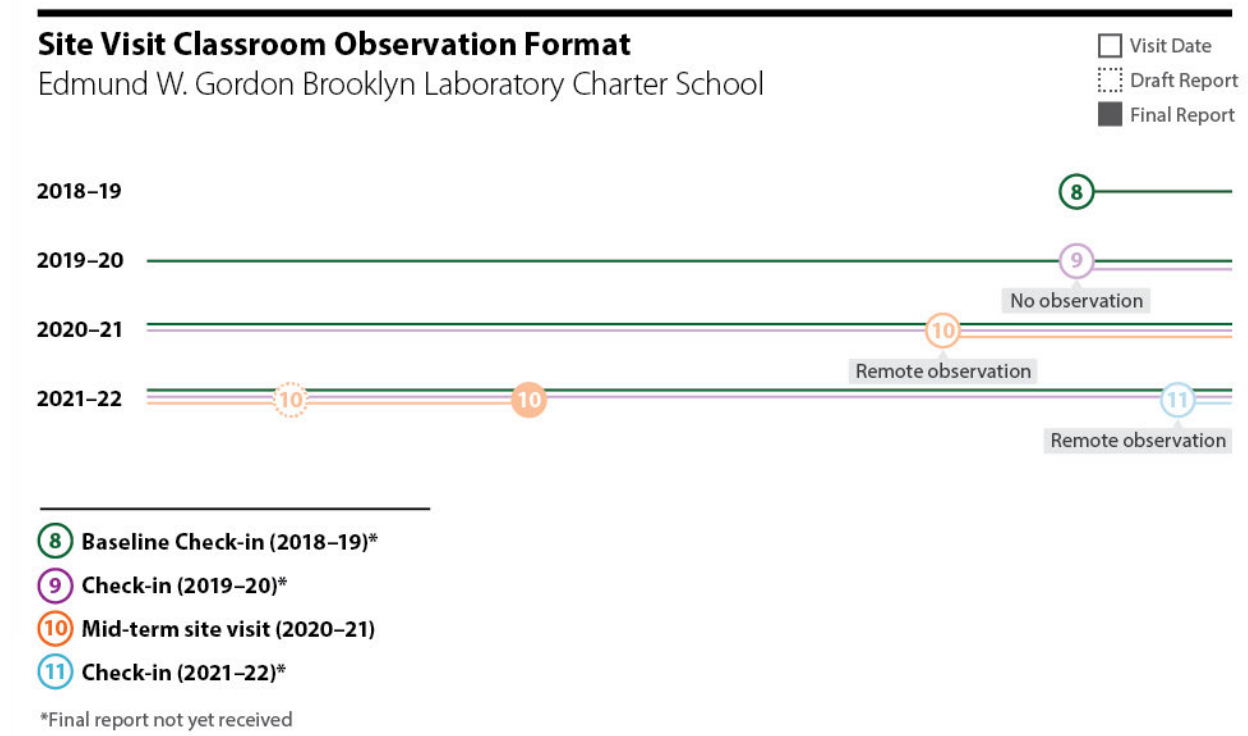
Specifically, on April 1, 2022, [REDACTED] emailed the School and the Board to schedule an in person "check-in site visit." She asked to meet with School leadership and Board members, tour the School and conduct in-person classroom observations. On April 1, 2022, that in person site visit was scheduled for June 1, 2022. On April 20, 2022, the parties confirmed that the in-person site visit would take place on June 6, 2022 instead.

CSO then became aware that senior staff members of color at the School had raised concerns regarding issues of disparate treatment. Following that, CSO abruptly canceled the in person site visit. On May 4, 2022, the School learned that [REDACTED] planned to conduct that visit remotely. On May 13, 2022, BB Ntsakey, the School's Senior Director of Academics, wrote to [REDACTED], respectfully requesting that the site visit remain in person, citing a number of practical reasons for doing so, chief among them being the inherent limitations of CSO staff virtually observing in-person classroom instruction.

On May 17, 2022, [REDACTED] wrote to Mr. Ntsakey, and stated that while she "appreciate[d]" and "underst[ood]" his request, "*taking into account the continued impacts of the pandemic it would be best for this to remain a virtual check-in.*" (emphasis added).

On May 20, 2022, I reiterated that the School had concerns about a virtual check-in. I pointed out that "[e]valuative reports from the NYSED CSO providing feedback from in-person observations are key to fully reflecting program strengths, facilitating effective feedback, and furthering the shared goal of improving communication and knowledge sharing between the evaluator and [the School]." I emphasized that for EWG BLCS "[s]ince **2018, only one check-in has been conducted in-person, and the school has not yet received a final report from that**

evaluation.” (emphasis in original). This lack of site visits is documented in the figure below.



On May 20, 2022, I expressed the same concerns to you, adding that my colleagues raised the point that “CSO staff [were] conducting site visits during this time period at other BoR schools.”

On May 24, 2022, my colleagues’ observations were confirmed by CSO. [REDACTED] wrote to me and others, stating that “[REDACTED] has been on a site visit yesterday and today” Thus, CSO itself confirmed that [REDACTED] was visiting other schools in person, at the same time that she was telling the School and its senior staff members that such a visit was not possible at our school because of “the continued impacts of the pandemic.” The appearance of retaliation for raising issues of disparate treatment is palpable for my colleagues and creates the risk of further concerns that the present dynamic impacts their working conditions. I worry that the overall lack of an in person observation report for EWG BLCS also impacts CSO’s evaluation and disadvantages that School in the coming renewal process. The pretext for refusing to meet with senior staff members of color in person also potentially sends them a message of exclusion and denigration that is at odds with our shared obligations under New York City Law.

Board Financial Disclosure Form Resubmission

The timeline and communication surrounding the submission of disclosure forms for four Trustees speaks to a broader pattern with CSO.

To provide background, in June and July, 2021 - during a surge of COVID-19 that impacted in-person administrative operations - the School collected and scanned completed

Board disclosure forms. The School submitted the SY20-21 Annual Report materials, including scans of Board financial disclosure forms, before August 1, 2021. On December 29, 2021 at 5:20pm, *five months later*, CSO wrote that it was finalizing annual reports to prepare for publication, and it needed BLCS to re-upload Board financial disclosure forms. At the time, CSO wrote, “It is in every school’s best interest that its public info be accurate, updated, and in accordance with statutory requirements and regulations.” It further warned that “Notices of Deficiency or Concern *may* be issued where these items are not complete or in order.” (emphasis added).

On December 30, 2021, after a thorough review, the school responded, “We have these items and are happy to upload them to the portal.” It continued, “Most of the Annual Report submission options were locked in August on our end, and the rest were locked in November. We spent time this AM looking to see if they were editable on our end. They do not appear to be. Are you able to unlock these items on your end? If so, we can begin to upload the relevant items.” CSO responded by unlocking these items in portal, to make it possible for the School to re-upload new scans. The new scans were uploaded and the matter was resolved. After reviewing the rescanned forms the following week, on January 7, 2022, CSO wrote: “...thank you for submitting the corrections.” CSO subsequently redacted and published the BLCS Annual Report.

There was no further communication with CSO on this matter until April 12, 2022, when CSO stated in the Report: “The school’s 2020-2021 Annual Report failed to include complete financial disclosure forms for four trustees. The *board has failed to remove trustees* who have not submitted complete disclosure forms as required by the Charter.” (emphasis added).

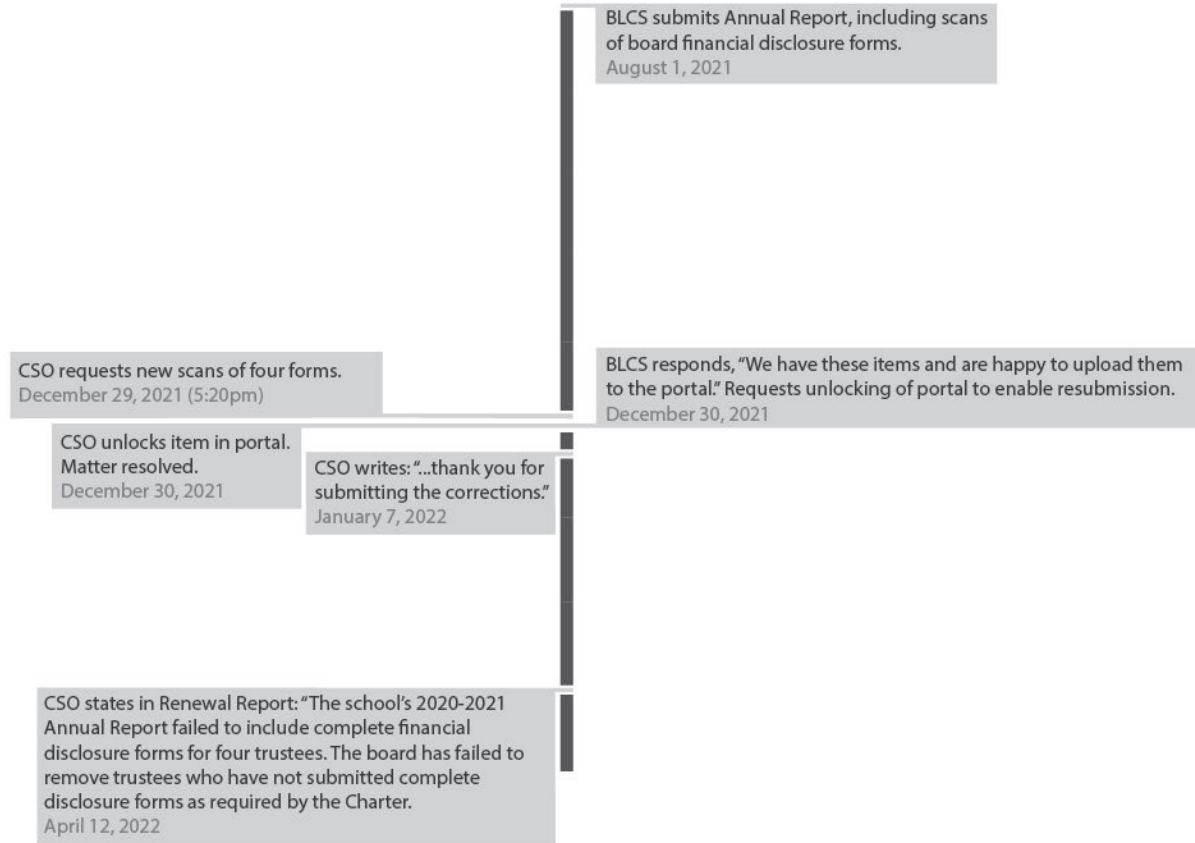
Between August 1, 2021 and April 12, 2022 CSO did not mention that it had considered the appropriate course of action to be removal of the four Trustees from the Board. Even though the initial communication around the legibility and apparent completion of the four forms took five full months after the initial submission, once CSO reconfigured the portal to allow the School to submit updated scans, it did so within hours. It also did so when the School was on Winter Break and the administrative offices were closed. At the time, CSO’s response seemed pleasant, professional and within proportion. However, by mid-April 2022 (a full eight months after the upload of the scans), CSO communicated that the School’s failure to remove four Board members was a significant legal compliance issue.

As CSO knows, the Trustees did not fail to submit their disclosure forms. Rather, pandemic-era remote operations impacted the legibility of scans. There is not a basis for demanding - or even suggesting - that these four Trustees be removed under these circumstances. The Trustees have not acted improperly and should not be held responsible for logistical and transmission difficulties, which were accidental and promptly corrected. The ex post facto unwarranted demand by CSO is arbitrary, and has no legal or factual basis under these circumstances. The inclusion of this demand in the Renewal Report sends a clear signal to women and persons of color on the Board and staff both that CSO does not respect the outstanding qualifications and contributions of these members of the Board -- and that they themselves should also feel vulnerable and threatened.

To underscore this point, the figure below captures this process. The cluster of

communications between December 29 and the 30th represent the back and forth between the School and CSO prior to this finding being shared.

Board Financial Disclosure Form Resubmission Timeline



Moreover, if there was a legitimate, actual demand from CSO to remove these Trustees - CSO should have formally and timely conveyed such. CSO should not wait nine months before elevating a supposedly serious matter related to the Board's duties of care, loyalty, and obedience. Is it NYSED's position that the Board was negligent with regard to these duties, or that the School failed to fulfill its duty to remove Board members? If so, why is this concern first raised nine months after an unintentional administrative error?

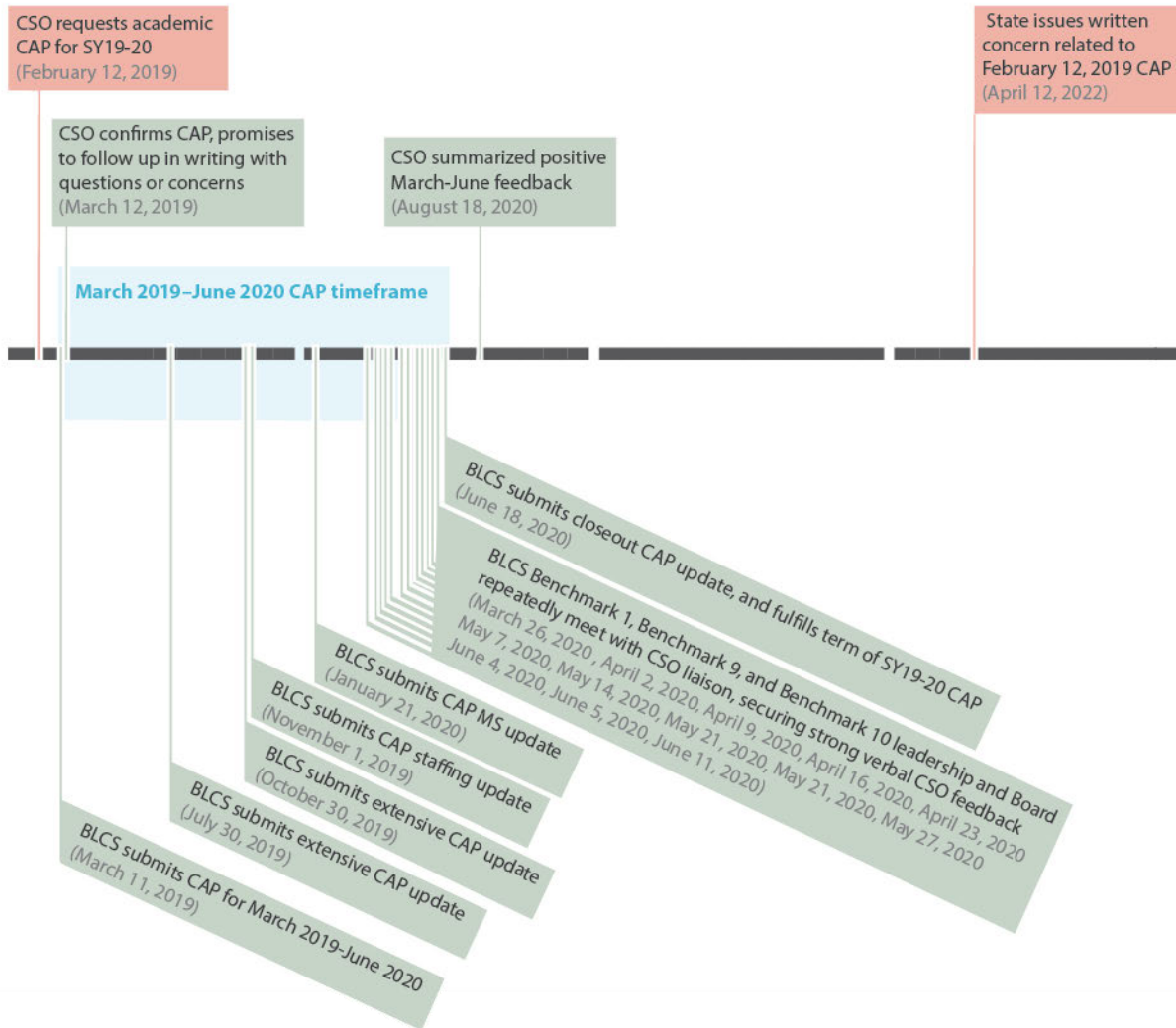
Indicator (b) feedback regarding the Corrective Action Plan Process is Confusing and Inaccurate

On March 12, 2019, ██████████ wrote to request a Corrective Action Plan (CAP) template be completed. Mrs. Santiago wrote, "As the purpose of these letters is not punitive, but rather to elicit improvements, we hope that you will take these letters as an opportunity to grow. ... We are always happy to provide any support or resources if needed, as possible." BLCs completed the template and submitted in advance of the CSO deadline on March 11, 2019.

My colleague BB Ntsakey, the School's Senior Director of Academics, provides context

regarding the strength and successful fulfillment of the School’s academic CAP process. See Ntsakey Letter. The documentation related to the CAP for Academics demonstrates BLCS diligently documented actual progress, and CSO provided positive feedback verbally on Zoom check-ins over 10 times during the CAP term, but did not provide written feedback in writing until April 2022, as shown in the figure below.









SY 2019-20 Corrective Action Plan for Academics Timeline



Furthermore, CSO’s own Final Report ratings for teaching and learning were “Meets” throughout the charter term, as demonstrated in this figure.

Benchmark 10.b Assessment of Corrective Actions for Academics

CSO's Final Site Visit Report

	November 9, 2018	April 8, 2019	August 12, 2020	May 18, 2022
Benchmark 2: Teaching and Learning	 Meets	 Approaches	 Meets	 Meets
Benchmark 3: Culture, Climate, and Family Engagement	 Meets	 Meets	 Not Rated (remote)	 Meets


















Given the extensive and positive feedback the School received during the Charter Term regarding its implementation of the CAP, we were surprised to read in the Report CSO's position that the existence of the CAP was evidence that the School was noncompliant with the law and our charter agreement. Also, given the consistent positive feedback, we were surprised to learn that CSO was apparently just starting its review of the CAP. CSO wrote: "Brooklyn Lab is still under a CAP for academic underperformance and enrollment deficiencies, and the CSO is currently reviewing the CAP, including actions taken and progress made, and will determine if the CAP is to remain open or be discontinued." While BLCS is sympathetic that CSO's typical cadence of review of academic data was disrupted by the pandemic, given CSO's lack of written follow up and positive verbal feedback, a "Falls Far Below" on this Indicator is confusing.

My colleague Jonathan Flynn, the Schools Director of Family and Community Engagement, also provides further context regarding the strength and successful fulfillment of the School's enrollment CAP process. I assert that our management of Benchmark 9 at the School is in the top 5% of management across the CSO-authorized portfolio of Schools. The artifacts Mr. Flynn has shared, and the strength of our work in the domain overall, represent the strength of Mr. Flynn and his team's work. See Flynn Letter. The extensive documentation provided by Mr. Flynn and his team over the charter term supports at least a "Meets" rating for this component of Indicator (b).

CSO Has Omitted Relevant and Significant Positive Strengths of the School from the Report, Many of Which CSO Itself Commented on in its Conversations with the School

Another issue is that in the School's view, CSO's written reports are unfairly selective. They include a disproportionate amount of immaterial negative issues, and ignore the numerous positive attributes of the School, attributes that CSO's representatives have praised the School for time and time again. If CSO publicly releases these unbalanced reports, the parents and guardians, donors, lenders and other members of the School community who review them will develop an unfairly negative impression of the School.

One example of this lack of balance is that Benchmark 10 is rated as “Falls Far Below” overall. However, a line by line review of the Indicators demonstrates that this rating does not match the evidence. This Figure captures that disconnect, and proposes more balanced, evidence-based ratings.

Benchmark 10 Indicator Strengths and Deficiencies			
CSO Selected Focus Topics			
	Charter Term Deficiency	Charter Term Strength	Balanced Rating
A. Compiles a record of substantial compliance	 5	 7	
B. Has undertaken appropriate corrective action	 2	 6	
C. Works to ensure that teachers are certified	 2	 7	
D. Seeks approval for material and non-material revisions	 1	 7	
E. Maintains sufficient enrollment demand for the school to meet the expectations detailed in the enrollment plan	 2	 8	
F. Seeks guidance from its legal counsel	N/A	 10	

Although this could be the subject of a memo in and of itself, this section will touch on four examples of positive work that has not been included in the School’s evaluative reports, even though CSO states that such work is crucially important and includes such details for peer schools.

First, the SY 20-21 Benchmark 1 Narrative has not been considered even though it is the most important single document for the most important Benchmark. Senior Director of Academics BB Ntsakey wrote to CSO to convey concern that the School’s [SY 20-21 Benchmark 1 Narrative submitted on October 29, 2021](#) does not seem to have influenced the preparation of the Renewal Site Visit Report. He affirmed his position that the Narrative “accurately and compellingly captures certain aspects of our results in accordance with guidance from NYSED -- and that it should be reviewed and considered in the renewal report.” Please see Ntsakey Letter.

Second, the School privileges the needs of all learners, including those who live with disabilities. The School’s approach with Students with Disabilities has been honored as a Center of Excellence (Center for Learner Equity), the 2022 Changemaker Award (National Alliance for Public Charter Schools), and Everyday Champion recognition (National Center for Learning Disabilities). When school doors closed in March 2020, the School co-founded the [Educating All Learners Alliance](#) and CSO’s own website’s page “[Successful Charter School Practices](#)” lists the Schools work to [ensure access for Students with Disabilities](#) in Distance Learning at the top of the list of highlighted practices. This strength should be appropriately highlighted in Benchmark 1, 2, 3, 9, and 10. Please see Ntsakey Letter.

Third, BLCS has taken head-on the challenge New York State is facing regarding

certified teachers, especially teachers who are Black or Brown. The strengths of our approach of promoting and securing certification deserved full consideration. Please see Ntsakey Letter.

Fourth, despite the heightened emphasis the Remote Site Visit protocol placed on Community Responsiveness, the School's documentation of successes and efforts in this domain have been all but ignored. If this evidence is not sufficient or on target, please provide examples of ways we can better share our important work. Please see Flynn Letter and Cecile Kidd's May 17, 2022 email to CSO.

CSO's Criticism that the School Does Not Involve CSO in Material Changes is Unfounded

CSO says in the Report that the School "altered its KDE and organization chart without submitting a revision to the CSO." This is not true. The School notes that it submitted material and non-material revisions repeatedly between 2016 and 2020 in coordination with counsel, the Board, the School's CSO Liaison and consistent with the previously published guidance. These revision requests were submitted in good faith and included KDE and Org Chart adjustments. The School appreciates that on October 18, 2021, CSO published an updated Charter Revision Request/Guidance for Board of Regents-Authorized Schools. When the new Liaison clarified that the School needed to utilize the October 18, 2021 guidance and the newly-launched portal, the School immediately committed to doing so, and to meeting CSO's new expectations. The School has engaged in this new process in good faith. It has devoted hundreds of hours of legal time and thousands of hours of staff time, first to submitting revision applications during the pre-Charter Term period, and then to revising those submissions consistent with the new CSO guidance and subsequent approval by BoR or CSO. Insisting in 2022 that 2016 or 2018 activity be conducted consistent with October 2021 guidelines seems difficult to anticipate, at the least.

This Report is also the first time the School has heard from CSO that the School did not provide adequate information to CSO. In fact, the feedback from the School's former CSO liaison, [REDACTED], was that the School kept CSO in the loop--her feeling was that the School did so *more* with regard to non-material and material requests than was required or practical given her workload, not less.

CSO's Actions Will Cause Irreparable Harm to the School

If CSO finalizes and publicly reports its unfounded conclusion that the School "falls far below" Benchmark 10, Legal Compliance, that will have a devastating impact on the School.

For example, the School's reputation will be harmed in the eyes of parents and guardians and other members of the School community. Enrollment may be negatively affected. Senior staff members will stand unfairly accused of violating the law and abrogating their responsibilities and the School's charter, which could have serious consequences for their future employment opportunities. The inaccurate representations about Board member disclosures could discourage them from future participation on the Board.

The School may also be unfairly put in the position of violating covenants contained in its agreements with philanthropic supporters and lenders. For instance, the School's ongoing funding through the XQ Institute is contingent upon the School remaining in compliance with all local,

state and federal laws and regulations relating to the operation of the School. Similarly, the Guaranty with the School's lender requires that the School is in compliance with all such laws and has conducted its business and operations in material compliance with them. The financial and organizational significance of the authorizer's assessment of our compliance rating is significant.

Thus, CSO's off-the-cuff and untrue statements that the School has not complied with state and federal laws will harm the School, its leadership and its Board, as well as students, parents, guardians and other members of the School community.

The way CSO's Benchmark 10 section is written in the Report discourages schools like ours from working to meet the needs of families or unlocking the potential of students. It also distorts priorities and fails to focus on what's most important: student learning and development. Indeed, it is apparent that CSO staff spent dozens of hours dredging up Benchmark 10 content from 2015-early 2019, but did not write a word about our Benchmark 1 Narrative.

The School—which aims to serve the needs of our community's most marginalized students, including students who live with a disability, students who come from low-income families, and students of color—shares the same stated goals as the Board of Regents and Commissioner: to provide the kind of learning and development experience that helps all students succeed. Despite these shared aspirations, when our school's staff and our regulator fight over what Brooklyn LAB families and students need and deserve, students are the ones who suffer the most.

I have personally already concluded that the arbitrary and inappropriate conduct directed at me makes my current professional position untenable. How many good professional staff and Board members should charter schools lose to the arbitrary and unworkable conduct of CSO?

School communities like ours face serious challenges—pandemics, traumatic stress, gun violence and the increasingly perilous weather disasters that result from climate change to name a few. Public schools must speed up the pace of improvement by surfacing the most promising prospective solutions for emerging challenges. That's why it's critical that CSO adjust its approach to our School, and switch to supporting us to meet this moment and put our students and families first.

As communities prepare public schools to rise to the challenge of the uncertainty and volatility ahead, this is the moment to take stock of CSO's authorizing. CSO must put aside adult resentment, and focus on our shared imperative to secure student success in the months and years ahead.

Best,



Eric Tucker
Executive Director
Brooklyn Laboratory Charter Schools