



New York State Board of Regents  
State Education Department  
Charter School Office  
89 Washington Avenue  
Albany, New York 12234

June 2, 2022

To the Board of Regents:

**Re: Response to the New York State Education Department’s 2021-2022 Renewal Site Visit Report for Evergreen Charter School under the 2015 Charter School Performance Framework.**

Evergreen Charter School (Evergreen or ECS) received its draft Site Visit Report on May 12, 2022, with a request from the Charter School Office (CSO) to review the report for factual corrections. Evergreen responded and submitted evidence to correct a number of items, some of which were corrected in the subsequent final report issued on May 26, 2022. However, some areas of concern were not addressed.

Evergreen submits the following response to the CSO’s Final Site Visit Report dated May 26, 2022. The renewal site visit to Evergreen Charter School occurred December 9-10, 2021.

**BENCHMARK 2**

**Response 1 Evidence:**

**Benchmark 2, Element: Curriculum (Page 14, Paragraph 5).**

During the focus group, teachers noted that there were learning gaps and readiness skills at the Kindergarten level that were “not what they have been in the past due to the COVID-19 pandemic”. However, another missed opportunity to introduce deeper conceptual knowledge was observed in a kindergarten science lesson. Instructional delivery, which featured dual-language co-teachers engaging in visual, audio and technology techniques, was superb; and students were engaged. However, the lesson lacked focus on scientific content (i.e.: how snow and rain is formed) and instead focused primarily on content related to how you should dress for a hurricane and blizzard. The school reports that lessons regarding the types of weather and

how they are formed were taught prior to the observed lesson and included student construction of individual snowstorm globes to simulate, observe, and record wind speed in weather journals.

**Evergreen Response 1:**

During Evergreen’s site visit the school received overwhelmingly positive feedback from the review team regarding this lesson focused on weather forecasting. Therefore, it was a surprise to see that this same lesson was noted as a “missed opportunity to introduce deeper conceptual knowledge”. Evergreen submitted a factual correction noting that deep background knowledge had been built during previous lessons and noting that the visitor stated the lesson was superb and could be videotaped for professional development. State education staff updated the final report with the sentence documenting that previously taught lessons delivered related content. However, the CSO did not remove the criticism that it was a missed opportunity to introduce deeper conceptual knowledge and that the lesson lacked a focus on scientific content. This disconnect between verbal feedback and the written memo is very concerning, as the written memo contradicts the feedback provided during the site visit.

**Response 2 Evidence:**

**Benchmark 2, Element: Instruction, Indicator b: (Pages 15-16, Paragraph 6)**

Evidence of student engagement was also referenced during focus group discussion about the school’s Saturday school. During the student focus group, high school students mentioned they enjoyed having the option to receive extra “free” support during Saturday school. One student remarked, “It has helped me with math, and they were even offering Saturday school during quarantine”. In their focus group, instructional leaders reported that 20-25 Grade 3 and 4 students attend Saturday school on Zoom for 1.5 hours of ELA and 1.5 hours of math. Saturday school runs from October through June for two hours each class. Since the renewal visit, the school reported that 15-25 students at each grade level attended Saturday school in-person or via Zoom but did not specify the time period for which this applies.

**Evergreen Response 2:**

The Final Site Visit Report does not accurately reflect Evergreen’s Saturday school offerings. Evergreen has students from K-10 (the highest grade served this school year) participating in ELA and math extra help during Saturday school sessions.

Specifically, 15-25 students in each grade level attended Saturday school in-person or through Zoom for 1-1.5 hours of ELA and 1-1.5 hours of math, totaling two-three hours of instruction for each class. Saturday school runs from October through June.

Evergreen submitted a factual correction on this topic, and while a slight update was made, the structure of the Saturday program is still not accurately reflected in the Final Site Visit Memo. Evergreen believes this is the type of factual correction that should be made to ensure the CSO’s reports document the program with fidelity.

**Response 3 Evidence:**

**Benchmark 2, Element: Supports for Diverse Learners, Indicator a: (Page 17, Paragraph 2)**

During the focus group with special populations staff, it was confirmed that English as a new language (ENL) co-teachers are TESOL certified. Most observations took place in early childhood settings, and it was difficult to comment on content and method appropriateness for older students. The integrated ENL class observed appeared to be well planned with ELLs receiving extra support throughout the lesson. However, at various times, rather than a co-teaching situation, there appeared to be two parallel lessons taking place, which could be confusing and distracting for ELLs and general education members of the class.

**Evergreen Response 3:**

The Final Site Visit Memo maintains this criticism that during an integrated ENL classroom there “appeared to be two parallel lessons taking place which could be confusing and distracting for ELLs and general education members of the class”. Evergreen submitted a factual correction when the report was in draft form reminding the State Education Department that parallel teaching is a co-teaching model supported by research and best practices. However, the CSO kept the statement.

Co-teaching models include: One Teach, One Observe; One Teach, One Assist; Parallel Teaching; Alternative Teaching; Station Teaching; and, Team Teaching.

The general education teacher and ENL teacher in this classroom selected to use the co-teaching model of parallel teaching to differentiate instruction and introduce difficult material in two smaller groups. Research indicates that parallel teaching as a co-teaching strategy effectively supports struggling learners. The ENL teacher was able to provide additional visuals, scaffolds, graphic organizers, and individualized attention for her English Language Learners. In addition, the model allows more opportunities for the English Language Learners to ask questions and respond to questions.

**BENCHMARK 6**

**Response 4 Evidence:**

**Benchmark 6, Element: Board Oversight and Governance, Indicator b: (Page 23, Paragraph 3)**

A review of the self-evaluation forms completed by the board do not demonstrate that the board engages in strategic and continuous improvement planning by setting priorities and goals that are aligned with the school's mission and educational philosophy. Board members consistently “agreed” with all statements in the evaluation and very rarely rated themselves as needing improvement or work. The renewal application acknowledges that finalizing the facilities construction for the high school is a strategic priority.

**Evergreen Response 4:**

The Board self-evaluation tool shared with the CSO includes questions about compliance with school policies and state law among other areas. This tool is not used for strategic planning purposes. The self-review form includes four questions posed to Board members that include the ratings very good, adequate and needs work. These questions are about Board attendance, input in policy development and decision making, fundraising, and community outreach. While Board members largely responded as very good in these categories, several members indicated performance in these areas was adequate and some indicated they needed improvement.

It is accurate that Board members generally were in consistent agreement, in particular about following policies. However, the self-evaluation was not submitted to the Charter School Office as a tool to demonstrate strategic planning, therefore it is inappropriate that the CSO has used this tool to evaluate the Board's effort in this area. Using this self-evaluation tool to measure strategic planning, when the tool itself is not specifically designed for this purpose, presents an incomplete narrative as there is no specific question on this evaluation that refers to setting strategic priorities.

Additionally, had the CSO specifically asked Evergreen during the visit to further explain the Board's approach to goal setting and strategic planning, and how Trustees are engaged in that process, the Board would have responded.

Evergreen's Board does engage in setting strategic goals and planning for the future that includes growth and sustainability, among other areas. In the future, the Board hopes that the CSO will directly ask about these efforts instead of hypothesizing without evidence.

**Response 5 Evidence:****Benchmark 6: Board Oversight and Governance, Indicator e: (Page 24, Paragraph 3)**

Annual board self-assessments allow each trustee to assess performance of the board related to oversight responsibilities, compliance with by-laws and other governance policies. *On the recent Board self-assessment 25 percent of trustees rated fundraising as "adequate" and 25% designated it as an area that "needs work." Only fifty percent responded that it is "very good," which suggests that additional work may be needed in this area.* In addition to the self-assessment, trustees participate in an annual retreat, according to the renewal application, where the board will discuss assessment results and adjust practices, prioritize PD for trustees, and discuss strategic priorities.

**Evergreen Response 5:**

Evergreen questions the use of the above wording (emphasis added with italics) and the CSO's objectivity, as the negative tone was exacerbated after the school's request to correct a factual error in the draft report.

The language of the May 12, 2022, report was as follows: (emphasis added with italics)

Annual board self-assessments allow each trustee to assess performance of the board related to oversight responsibilities, compliance with by-laws and other governance policies. *On the recent Board self-assessment 50 percent of trustee rated fundraising as “adequate” and designated it as an area that “needs work”.* In addition to the self-assessment, trustees participate in an annual retreat, according to the renewal application where the board will discuss assessment results, adjust practices, prioritize PD for trustees and discuss strategic priorities.

The language from the original report was changed to correct a factual error at Evergreen's request, however, the new language continues to exert a negative tone. Evergreen requested that the following factual correction be made: of the Board members that responded to the survey, 50% said very good, and 25% said adequate, resulting in 75% of the Board evaluating fundraising activities as adequate or very good. Only 25% suggested that it is an area that needs work.

**Response 6 Evidence:**

**Benchmark 6: Board Oversight and Governance, Indicator f: (Page 24, Paragraph 4)**

The ECS board has not always demonstrated full awareness of its legal obligations to the school and stakeholders, which indicates that further board development and attention is needed in this area. BM 10 notes a number of areas in which the school has had deficiencies in terms of compliance with the law, regulations and its charter. As previously indicated, best practices related to arms-length conflicts of interest and board term limits should be further explored with the CSO.

**Evergreen Response 6:**

Evergreen cannot find evidence that supports the statement: “as previously indicated best practices related to arms-length conflicts of interest and board term limits should be further explored with the CSO”. Additionally, there is no law or regulation that requires Board term limits. Having Trustees who have demonstrated a long-term commitment to the school, which is an academically successful community-based charter school, could be viewed as a significant strength. We have reviewed previously reports and do not see term limits mentioned before nor has this come up as a concern in conversations. Even if it had, Evergreen questions why it is being criticized for choosing not to implement a practice that isn't required by the laws governing charter schools.

With respect to arms-length conflicts of interest, Evergreen submitted evidence that the Board strictly follows its policies regarding arms-length transactions.

**BENCHMARK 9**

**Response 7 Evidence:**

**Benchmark 9, Element: Targets are not met, Indicator b: (Page 31, Paragraph 2)**

In its charter renewal application, ECS outlines the following recruitment strategies to attract and retain subgroup populations:

- Changing messaging as necessary;
- Investing more resources in student recruitment;
- Increasing outreach efforts and advertising;
- Monitoring provision of services for diverse learners;
- Maintaining relationships with community and faith-based organizations; and
- Continuing to translate outreach materials and communications.

These strategies were affirmed in focus group discussions with school leaders. The school's renewal application, however, denies evidence of any existing or continuing issues, by stating, "Evergreen has been found to consistently meet obligations in the area of recruitment and enrollment among at-risk student subpopulations."

### **Evergreen Response 7:**

It was a surprise to see the Draft and Final Site Visit Reports used a quote from the Renewal Application regarding recruitment and enrollment as evidence that the school denies the existence of any issues to be addressed. Nothing could be further from the truth. Evergreen is incredibly reflective regarding enrollment data and works very hard to meet Benchmark 9 expectations. The quoted text from the Renewal Application was intended to document that the school historically had been found by the CSO to be meeting expectations in Benchmark 9, which is true. Specifically, NYSED's finding in the 2016-2017 Renewal Site Visit Report and the 2019-2020 Mid-Term Site Visit Report both documented that the school met expectations for Benchmark 9. Further, Evergreen has always demonstrated good faith efforts, which is also a factor in meeting Benchmark 9 expectations.

Despite the factual correction submitted explaining that this quote in no way was intended to deny that work can and will continue to enroll students at a comparable rate to the DoL, the CSO declined to address the issue.

## **BENCHMARK 10**

### **Response 8 Evidence:**

#### **Benchmark 10, Element: Legal Compliance, Indicator a: (Pages 32-33, Paragraph 1)**

ECS has had a number of compliance concerns and deficiencies throughout the charter term, outlined as follows:

ECS has failed to provide the CSO with accurate and consistent information regarding the number of facilities and parcels it leases, owns, is acquiring, and actively uses. In response to a January 2022, and then more recent request for updated information regarding its facilities, ECS reported that it currently owns six properties and leases three properties. The leased properties actively operate as school buildings. One of these leased facilities is located in the Franklin Square School District, and ECS has agreed that it will vacate its temporary occupation of this space at the end of SY 2021-2022 and begin using two leased spaces in Hempstead in July 2022, pending CSO revision approval. Some of the purchased properties are adjacent to existing facilities and are used or will be used for parking, and other are adjacent vacant or unoccupied lots that will be the footprint of a new school building that is currently in the planning

and development phase. During discussion with CSO representatives during focus group discussions and in the renewal application, ECS contends that it currently operates in three sites and is in the process of constructing a facility at 27-33 Laurel Avenue, and 39 Laurel Avenue in Hempstead as a permanent structure for the upper grades. One of these facilities (133 Linden Avenue) is presently occupied by residential tenants, and the school reports being engaged in litigation to evict said tenants. All but one of the six facilities acquired by ECS were obtained without the knowledge or approval of the charter school office, and the school's annual reports fail to accurately reflect the number, location and planned use of its facilities. As of the date of this report, NYSED is investigating a formal complaint filed by the Hempstead Union Free School District against ECS, alleging violations of the charter and the law related to the school's facility in Franklin Square, NY.

**Evergreen Response 8:**

Evergreen has provided information about the number of facilities and parcels it owns to the CSO. Evergreen has kept the CSO abreast of its intentions through written and verbal communication throughout its existence. It is important to note that the portal is newer, and previously communications were not curated through such a system; as a school with a long history, the switch to the portal marks a change in how information is submitted. In past years, phone conversations and other written communications were the norm. It is true that the school has obtained multiple properties and is in the process of building out permanent facilities, which coincides with the school's Board of Regents and CSO approved grade expansion plans. It is, and always has been, Evergreen's intention to work collaboratively with the Department to ensure clear communication regarding facilities.

In a response to a request from the CSO in April 2021, ECS submitted information to document all properties owned and leased, and since this time new additions to this list occurred through the portal. As of May 2022, all properties have been entered into the portal.

It is not factually correct that facilities were acquired without the knowledge of the CSO, and Board minutes further indicate the Board's actions. One area where Evergreen did not properly document each facility and parcel was in the annual reports, although the annual reports did document where the school had operated for the year. It was the school's misunderstanding that the annual report should include all properties owned or leased even though the school was not in operation at those sites for the school year reported.

It should be further noted that Evergreen sought and obtained permission from the CSO to temporarily operate in the Franklin Square property referred to in the formal complaint by the Hempstead School District. This is memorialized in an email from June 2019 and in later emails in July 2019.

**Response 9 Evidence:**

**Benchmark 10, Element: Legal Compliance, Indicator a: (Page 33, Paragraph 1, Bullet Point 2)**

Multiple school policies require revision to be in compliance with state laws and regulations.

### **Evergreen Response 9:**

Evergreen has continued to update policies to remain compliant with state laws and regulations in an ongoing manner throughout its tenure. It is factually inaccurate to state that “multiple school policies require revision”, as they have been revised and updated, and the CSO has not alerted Evergreen to a potential issue with any specific policy. As of this date it is still unclear which policies the CSO is referring to with this line. Evergreen does not believe it is appropriate or fair to raise a such a serious criticism without also providing Evergreen with the list of policies at issue so that the school and department can work collaboratively to address any concerns. Evergreen is proud of its proactive review and practices to update policies. As with facilities, the school is committed to working with the CSO in good faith to address any issues and would have certainly engaged its attorney to help examine any policy the CSO deemed to be inadequate.

It remains a priority for Evergreen to ensure the department has all the information necessary for its oversight. The CSO has clarified to Evergreen that policies should be submitted into the portal as a non-material revision. Therefore, Evergreen will submit a comprehensive set of policies through the portal as a non-material revision to ensure the department has updated copies and will remain open to making further updates if recommended by the CSO.

### **Response 10 Evidence:**

#### **Benchmark 10, Element: Legal Compliance, Indicator a: (Page 33, Bullet Point 3)**

Based on conflict of interest/financial disclosure statements submitted with the school’s 2020-2021 Annual Report, four trustees have conflict of interest concerns that have not been addressed to the CSO’s satisfaction. Upon review, the CSO asked for more information regarding any ECS board member who is a current or past employee or board member of Circulo de la Hispanidad, since Circulo is the “landlord” of ECS’s main building and contracts with/provides services to ECS; and for a board member who has a family member employed by the school. The CSO did not receive updated or more detailed information or revised Disclosure of Financial Interest forms, despite this request.

### **Evergreen Response 10:**

Evergreen was founded in partnership with Circulo de a Hispanidad as a true community-based school, which we view as a significant strength. At the time of the charter submission, the CSO specifically asked the founders that this partnership not be formalized. Three Board members have had the same conflict of interest (affiliation with Circulo, who is also the landlord of one building) since the inception of the charter school in 2009. A fourth Board member submitted information that he has a family member employed by the school. It has been unclear to the Board how to address the issue to the CSO’s satisfaction. The Board has always been diligent to ensure no inappropriate discussions or actions are taken. The Board shares the CSO’s priority of meeting all such standards.



The Board would like to state for the record that ECS did follow up on a request from the CSO to submit additional information on this topic. The CSO sent an email on December 30, 2021, asking for additional information to be submitted within one week, and Evergreen met this deadline via a submission to the portal. Evergreen continues to request that this negative statement be corrected for the record, as conflict of interest policies and the code of ethics have always been strictly followed, with appropriate recusals, for any Board members who have a conflict.

**Response 11 Evidence:**

**Benchmark 10, Element: Legal Compliance, Indicator a: (Page 33, Bullet Point 4)**

In May 2021, ECS was issued a Notice of Deficiency with Request for a Corrective Action Plan for holding and scheduling fewer than twelve board of trustee meetings per year. Based on information submitted with the school's annual reports, fewer than twelve meetings were held for all but two calendar years between SY 2011-2012 and SY 2019-2020. After being apprised of this concern by the CSO, only eleven meetings were reported held in 2018-2019 and 2019-2020.

**Evergreen Response 11:**

Please note for the record Evergreen's Board did hold 12 meetings as required in 2020-2021. A request to document this positive compliance was sent to the CSO with the factual corrections submitted, but it was not addressed. Further, the Board has currently held or is scheduled to hold a meeting each month in the 2021-2022 school year as well; in fact, the total number of meetings for the 2021-2022 will exceed 12. Evergreen will continue to meet this goal each year.

Evergreen wonders why the CSO declined to acknowledge progress in this area, as at the time of this final report Evergreen has been on track to meet this goal for the past two years.

**Response 12 Evidence:**

**Benchmark 10, Element: Legal Compliance, Indicator a: (Page 33, Bullet Point 5, Sub Bullet Point 2)**

Failing to follow charter school revision requirements by not seeking CSO approval for charter revisions and implementing them without CSO approval, particularly as concerns changes to its staffing structure and facility, moves, purchases, and leases.

**Evergreen Response 12:**

The Notice of Concern issued by the CSO listed three items, and one was related to charter school revisions. However, specific topics were not included in the letter. With that said, Evergreen was aware of an issue with the school's revision to its staffing structure (facilities issues are addressed in a previous response).

Evergreen submitted an updated organizational chart with its 2019 revision request to add grades. As this was submitted as part of the request, it was unclear to Evergreen that the organizational chart was not approved as part of the slate of changes made that year. After receiving clarification from the CSO that a material change was needed to adjust its

organizational chart, Evergreen submitted a formal request through the portal. This was approved in the 2020-2021 school year.

### **CONCLUSION**

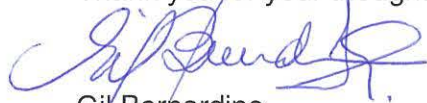
Evergreen Charter School values feedback and the opportunity to improve our school. The Board and leadership team recognize the site visits by our authorizer as an opportunity to showcase our achievements and progress. At the same time, these visits present an opportunity for Evergreen to learn how we can continue to improve. We also recognize that the site visit report is the formal tool used to communicate information about Evergreen's achievement with respect to the benchmarks in the Charter School Performance Framework.

We disagree with some of the findings presented in the CSO report. We respectfully submit that some information has been presented as fact without evidence, even when evidence has been provided to show otherwise. We will continue to advocate for our school – and most importantly Evergreen's students and families – and will try to correct the record when it inaccurately portrays the school or the actions of its administrators, staff, and Board in a negative light. We have noted more than several inaccuracies in the report above. Although we stated these concerns while the report was still in draft form, some items in the report continue to be factually incorrect.

Evergreen has had to overcome many challenges and has a long track record of providing a high-quality school option in a community desperately in need. Despite adversity, we have continued to remain committed to our mission and vision, knowing that Evergreen is making a difference every day in the lives of Hempstead's youth.

It is our hope the comments and concerns raised in our response are addressed. We also hope that communication with the CSO can be more transparent, with the ultimate goal being to help strengthen and improve Evergreen, which is what our students deserve.

Thank you for your thoughtful consideration of our feedback,



Gil Bernardino  
Board President