

FREQUENTLY ASKED QUESTIONS BY PROSPECTIVE CHARTER SCHOOL APPLICANTS TO THE NEW YORK STATE BOARD OF REGENTS

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The information below provides responses to specific questions that have been asked by prospective charter school applicants and members of the public. This information should not be considered to be a definitive summation of statutory requirements relevant to charter school applications, nor as comprehensive guidance for school design. Charter school applicants are advised to become fully familiar with New York State Education Law, Article 56: The Charter Schools Act and all related regulatory provisions, and review the full requirements for submitting a proposal contained in the [2012 Request for Proposals to Establish Charter Schools Authorized by the Board of Regents](http://www.p12.nysed.gov/psc/startcharter.html) administered by the New York State Education Department, posted at <http://www.p12.nysed.gov/psc/startcharter.html>

Additional questions may be submitted to the New York State Education Department's Charter School Office at charterschools@mail.nysed.gov. Responses will be provided as additions or supplements to this document.

1. What is a charter school?

Charter schools are secular, tuition-free public schools that are operated as independent education corporations formed for this purpose. Charter schools are financed through public local, state, and federal funds but are independent of public school district boards of education. The authority of the charter school to provide public education is through a "charter agreement," a type of contract, between the charter school board of trustees and its chartering entity. The New York State Board of Regents is one of the two statewide chartering entities (also known as "authorizers")—the other being the State University of New York Board of Trustees—who can currently issue new charters. Charter schools typically focus on innovative curricula, a new approach to school organization, or some other features that differentiate them from traditional district schools. Students who are residents of New York State may choose to attend any charter school and are enrolled through a fair and transparent application procedure.

2. What are the purposes of charter schools?

Charter schools as defined in New York are intended to achieve the following objectives:¹

- Improve student learning and achievement;
- Increase learning opportunities for all students, with a special emphasis on students who are at-risk of academic failure;
- Encourage the use of different and innovative teaching methods;
- Create new professional opportunities for educators;

¹N.Y. Education Law § 2850(2)

- Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and
- Provide schools with a method to change from rule-based to performance-based accountability systems.

APPLYING FOR A CHARTER FROM THE NYS BOARD OF REGENTS

3. Who is eligible to apply to establish a charter school in New York State?

An application to establish a charter school must be submitted by one or more individuals who are teachers, parents, school administrators, community residents or any combination thereof.² The designated lead applicant(s) should be one or two individuals who meet at least one of the criteria listed above, and will serve as the official representative(s) for the prospective school throughout the application process. The charter school application may be filed in conjunction with a college, university, museum, educational institution or not-for-profit corporation, but may also be filed independently. Corporate entities and organizations may not be applicants.

4. What is the founding group?

The founding group is a group of individuals who have come together to develop and present the proposal for the school. As such, they act as representatives for the proposed school prior to approval and issuance of the charter. Subsequent to the issuance of the charter, founding group members may become members of the board of trustees, may become employees of the school or may not continue to be involved with the school.

5. What information should be included in the application about longer term plans to expand a school to additional grade levels beyond the initial five-year charter term?

The applicant should clearly define the projected grade span and enrollment for the initial charter term. All information provided in the Letter of Intent and Full Application should support the educational plan for the specified grades and numbers of students. Long term plans for an expanded school design may be referenced as “Projected Maximum Enrollment and Grade Span” in the Application Summary (template is on page 19 of the kit). If an applicant desires to secure approval to operate a school with a grade configuration that might extend beyond the term of the initial charter, all aspects of the entire program must be presented in the Full Application. Alternately, a request for authorization to expand the school to additional grade levels and the educational plan and supporting information for these additional grade levels may be provided as part of the charter renewal process. In either case, the charter school must earn renewal before being permitted to expand beyond the terms outlined in the initial charter.

² N.Y. Education Law § 2851(1)

6. After the Letter of Intent is submitted, may the applicant continue to add individuals to the founding group and the proposed school’s founding board for the Full Application submission?

Yes. However, it is expected that the applicant group and the proposed initial board of trustees will be established at the time the charter school application process is initiated. The Letter of Intent requires the applicant to provide the names and some background information for each member of the applicant founding group and also for at least five members of the proposed initial board of trustees (the founding board). NYSED will review Letters of Intent to evaluate whether each submission is technically complete and thorough, and Letters of Intent that are incomplete and do not provide the requested information will not be accepted. However, it is understood that charter school planning and development is an ongoing process and that additional individuals may wish to become formally involved with the proposed school as this development moves forward. Thus, additional names of founding group members may be provided with the Full Application.

7. What does it mean that charter school application materials are “public records?”

All Letters of Intent and Full Applications will be made available to the public through posting on the NYSED website at <http://www.p12.nysed.gov/psc/startcharter.html> Names of the members of the applicant/founding group and names of the individuals identified as board members for the proposed school will be included, but personal contact information (personal address, phone number, email address) will be redacted from the posted materials. Applicants are asked to include a media contact email address and telephone number, to be provided as a resource for public inquiries about the charter school application.

8. May an application that has been submitted be withdrawn?

Yes. A decision by an applicant or founding group to withdraw an application requires a written request signed by the applicant and submitted to the NYSED Charter School Office prior to final action by the Board of Regents. If an application is withdrawn at any time subsequent to submission, it nonetheless remains a public record.

9. Who will review and evaluate charter school applications and the capacity of founding groups?

NYSED staff will conduct the initial review of the Letter of Intent, to assure that the information provided is technically complete and addresses the requests in the NYSED charter school application kit. Applicants will be notified by letter whether the submitted Letter of Intent is complete and whether the Letter may be followed by the submission of a Full Application.

Each Full Application will be evaluated by a panel of reviewers with expertise in education, charter school operations and/or other areas relevant to the presented school design. Reviewers will include a combination Department staff and external

reviewers with appropriate expertise in public education. Review panel members will use the rating categories presented on page 48 of the application kit to evaluate each section of the Full Application against the evaluation criteria articulated in each section of the application. A summary of the review panel's ratings will be used by Charter School Office staff to assess whether the applicant group will move to the Capacity Interview phase.

10. Will the Board of Regents give preference to certain kinds of applications and applicant groups?

Preference will be given to those applications and applicant groups that demonstrate the greatest probability of creating public charter schools of the highest quality by meeting the rigorous and comprehensive criteria of the Board of Regents' application process. Applicants must meet all the criteria set out in the Charter Schools Act and the 2010 revisions to the Act. In the event that the number of high quality applications exceeds the number of available charters, Charter School Office staff will prioritize the applications according to the criteria set forth in Appendix C.

11. On what grounds may a charter application be denied?

Applications that do not meet the criteria outlined in the Charter Schools Act will not be recommended to the Board of Regents for approval. Applications and the capacity of applicant groups to establish a successful charter school will be judged on the basis of the written application materials, the capacity interviews, and additional research and due diligence conducted by NYSED staff, including criminal background checks and, possibly, employment references of proposed governing board members and school administrators. NYSED will not recommend that the Board of Regents issue charters to applicant groups who do not present a high quality educational program design supported by a sound operational and fiscal plan, as well as the governance capacity to successfully implement the proposed educational program.

12. If a charter entity rejects a charter application, can the applicant appeal?

No. If NYSED or the Board of Regents acts to deny an application for a charter school, the denial is final and not reviewable to any authority, including a court of law. The applicant group may apply to another charter entity, or may revise or further develop the proposed school plan and re-apply to NYSED in a future application cycle.

OPERATING AS A BOARD OF REGENTS AUTHORIZED CHARTER SCHOOL

13. What happens after a school has been approved by the Board of Regents?

Upon approval of an application, the Board of Regents enters into a charter agreement with the newly formed education corporation's board members. The signed charter agreement becomes the definitive document outlining the terms and conditions of the relationship between the Board of Regents and the governing board of the charter school. A template of the Board of Regents Initial Charter Agreement may be found at: <http://www.p12.nysed.gov/psc/documents/2011CharterAgreementTemplate.pdf>

14. What is the allowable extent/duration of a charter?

The term of the charter may not exceed five years in which instruction is provided to students, plus the period commencing with the effective date of the charter (typically the date of Board of Regents approval to issue the charter) and ending with the opening of the school.³ Applications that are submitted in the 2012 cycle are expected to commence instruction by Summer/Fall 2013, with the term of the charter running through June 30, 2018. In the event that an additional planning year is approved by NYSED, the term of the charter will end on June 30, 2019. The renewal application will be requested after the completion of the fourth year of operation, anticipated to be the summer of 2017 for schools that open in 2013.

15. Who oversees charter schools?

The charter entity (“authorizer”) that approved the charter school also provides oversight throughout the term of the charter. This includes the right to visit, examine and inspect the charter school and its records. To permit the Board of Regents to fulfill this oversight function under the Charter Schools Act and ensure that each charter school is in compliance with all applicable laws and regulations and the terms and conditions of the charter, each Regents-authorized school agrees to abide by and implement an Oversight Plan, which may be viewed at <http://www.p12.nysed.gov/psc/OversightPlan.html>

16. Under what conditions may a charter be revoked or terminated?

A charter entity or the Board of Regents may revoke a school’s charter for serious violations of law or for violation of the charter, including academic underperformance and/or fiscal mismanagement. Also, if specified pre-opening requirements are not met, a charter school may not be authorized to open and may be subject to revocation.

17. Is a charter school subject to the same laws and regulations as other public schools?

No. The charter school is subject to the same health and safety, civil rights, and student assessment requirements as other public schools, but is exempt from all other State and local laws, rules, regulations, or policies governing public or private schools, other than the provisions of the Charter Schools Act.⁴

18. Do charter school teachers have to be certified?

Yes. However, charter schools may employ uncertified teachers with at least three years of classroom teaching experience or two years of satisfactory Teach for America experience, or who are tenured or tenure-track college faculty, or individuals with exceptional business, professional, artistic, athletic, or military experience. The number

³ N.Y.S. Education Law § 2851(2)(p)

⁴ N.Y.S. Education Law § 2854(1)(b)

of such uncertified teachers employed by a charter school may be no more than 30 percent or five teachers, whichever is less.⁵

Student Enrollment

19. Who can enroll in a charter school?

Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school. Immunization requirements for enrollment in the public schools, as health and safety requirements, will apply to charter school students.

20. On what basis may a charter school select students?

In general, a charter school may establish no admissions requirements except that students meet the age or grade level requirements specified in its charter. A charter school must provide admissions preference to enrolled students who will be returning to the school, to siblings of children enrolled in the school, and to students who reside in the school district of location. In addition, a charter school may be formed as a single-sex school or as a school designed to provide expanded learning opportunities for students at-risk of academic failure or students with disabilities and English language learners, and in such circumstances may provide admissions preferences to such students, consistent with the requirements of federal law.

A charter school may deny admission to a student who is currently under suspension or expulsion by another public school until the period of suspension or expulsion has expired.⁶

21. Are charter schools required to enroll children with special needs?

Yes. A charter school may not discriminate against or limit the admission of children on any unlawful basis, including on the basis of ethnicity, national origin, gender, disability, intellectual ability, measures of achievement or aptitude, athletic ability, race, creed, religion or ancestry.

22. What if more students apply than a charter school can enroll?

If the number of applicants exceeds the number of available seats, a random public lottery must be held, in accordance with Section 119.5 of Commissioner's Regulations, *Random Selection Process for Charter School Student Applicants*.

23. What are enrollment and retention targets?

In accordance with the 2010 revisions to the Charter Schools Act, the Board of Regents is required to establish targets for the enrollment and retentions of students with

⁵ N.Y.S. Education Law § 2854(3)(a-1)

⁶ N.Y.S. Education Law § 2854(2)(d)

disabilities, English language learners and students who are eligible for the free and reduced price lunch program. The targets must be comparable to the enrollment and retention figures for these categories of students within the public school district of location. NYSED anticipates that the Board of Regents and SUNY Board of Trustees will establish the enrollment and retention targets in early 2012. The Letter of Intent and Full Application should include detailed information about the school's planned strategies to recruit, serve and retain these targeted populations. As part of the evaluation of the charter school application, reviewers and NYSED staff will give careful consideration to the likelihood that the proposed school design will support the ability to meet or exceed these targets.

Funding and Facilities

24. How much money do charter schools receive?

The amount depends on the number of students the charter school serves and the approved operating expense (based on local, State, and federal funds) of the various districts of residence of those students. Current information about charter school basic tuition rates paid by districts can be found at <https://stateaid.nysed.gov/charter/>. If the charter school provides special education programs and services to its students, rather than have such services provided by the school districts of residence, the charter school will also receive federal, state and local aid in proportion to the level of services provided.

25. Are charter schools entitled to federal funds?

Yes. As public schools, charter schools are eligible for federal funds that are available to traditional public schools, such as IDEA and Title funds (I, II, etc)

26. Can charter schools use funds to lease facilities?

Yes. Charter schools may use per pupil funding (charter school basic tuition) to pay for lease payments, mortgage payments, rents and other operational costs bundled or associated with these facilities payments. However, the charter school may not use per pupil funding to directly pay for construction costs.

27. What funds are available to cover the start-up costs of charter schools?

Each charter school application that is approved and issued a charter by the Board of Regents is eligible to receive a federal Charter Schools Program (CSP) Planning and Implementation grant, to support school start-up and implementation costs. The base amount of the grant is \$500,000 over a three year period (planning year, implementation year 1 and implementation year 2). Enhanced grants of up to \$750,000, will be available to new schools that meet specified design priorities (see Appendix B for more information). All CSP grant awards are contingent upon the completion of additional grant-specific budget information and other requirements. For reference, information about the current CSP Implementation and Planning Grant may be viewed at <http://www.p12.nysed.gov/psc/CSPNewFY12PlanningandImplementationGrants.html>

Contingent on the availability of funds, charter schools may also apply for grants through the Charter School State Stimulus Fund. Information may be found at <http://www.newyorkcharters.org/schoolsGrantOpps.htm>.

28. By what point in the application process should an applicant secure a facility?

During the application process, applicant groups must demonstrate the capacity to secure an appropriate facility for the school. Once the charter is issued, the school will formalize facility arrangements and ready the school for opening. NYSED will issue a *Consent to Commence Instruction* letter, authorizing the school to open, only after all pre-opening requirements are satisfied. See

<http://www.p12.nysed.gov/psc/OversightPlan.html> for more information.