Dec. 19, 2011

John B. King Jr., Ed.D.
Commissioner
New York State Education Department
89 Washington Avenue
Albany, NY 12234

Dear Dr. King:

I am writing in regard to the New York State Education Department's call for comments, on behalf of the Board of Regents, on the Draft Request for Proposals to Establish New York State Charter Schools (the RFP). The City School District of Albany respectfully asks, in the best interest of the thousands of schoolchildren and taxpayers statewide who will be affected by this decision, that the RFP be amended before it is distributed in its final form Jan. 3, 2012, to specifically address the following critical components:

- That the group empanelled to review any new proposal for a charter school, or a proposal to renew an existing school's charter, include representation from the local public school district in the Phase II evaluation process, and
- That any new proposal for a charter school, or a proposal to renew an existing school's charter, must provide a measurable plan to enroll, retain and serve students with disabilities and English language learners in percentages equal to the percentages of students in those categories enrolled in the local public school district.

As it stands, the RFP fails to provide meaningful input from the local school district, ignoring the current local educational environment and the long-term impact on that environment for all students. This threatens to disadvantage all students and families, especially those who are not able to enroll, choose not to enroll or are unable to remain in charter schools.

The current RFP also provides extra financial incentives for a charter school to educate students with disabilities and English language learners in percentages equal to that of the local public school district, rather than specifically requiring that prospective charter schools, or charters seeking renewal, put forth a plan to enroll and retain students from these two critical subgroups in percentages reflective of the community the schools propose to serve. Albany's charter schools continue to be allowed to operate in violation of state law that mandates that charter schools must serve students with disabilities and English language learners in percentages that reflect the local public school district. In Albany, for example, the percentages of students with disabilities are badly out of proportion – 3.6 percent in charter schools vs. 14.4 percent in public schools.

The impact of moving forward without addressing these two concerns would be harmful to students – especially those vulnerable students with the highest academic, social and

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emotional needs. These critical elements historically have been overlooked in decisions to site and renew charter schools in New York State. All schools in the City of Albany already struggle with the consequences of this faulty, poorly planned, inequitable process, as evidenced by the closure of public, parochial and charter schools in recent years. Moreover, this duplicative system diminishes the programmatic offerings and available resources for all schools.

In the 2011-12 school year, 11 taxpayer-supported Albany charter schools – two approved by the Board of Regents and nine approved by the SUNY Board of Trustees – serve about 2,200 Albany students alongside 15 public schools serving nearly 8,700 students. The redundant taxpayer-supported system that has been forced on our community has diverted more than $150 million from our budget over the past decade. It will divert another $35 million in 2011-12. This is jeopardizing the efforts to raise achievement not only for all students in our school district, but for all students in our community as charter schools compete against themselves and every other educational organization for the students they need to remain solvent.

We believe the RFP, as currently drafted, would risk extending the fiscal and academic hardships that Albany faces to school districts, students and families across the state. We implore SED to address the concerns raised herein to provide all communities in New York State a fair, equitable process to ensure that the academic, social and emotional needs of all students are considered, and that all students have access to the educational resources supported by our state's public tax dollars.

Transparency and the need for input from the local district

Public school districts, and particularly public school districts where charter schools are being considered and approved, historically have been shut out of the review process in New York State. The RFP does nothing to address this glaring failure to adequately and openly consider the impact these decisions have on local school districts.

A completely transparent process should allow at least one representative from the local school district to serve in an official capacity on the external review team that studies each application during Phase II of the application process. Historically, SED and SUNY have carried out their charter reviews and approvals behind a curtain that shielded local districts from a meaningful opportunity to assess the impact or even the presumed need outlined in an application. Who better than the local district to provide substantive input on questions about specific inadequacies that a charter applicant is proposing to fill?

Local school districts, because they are led by school boards elected by entire communities, are the logical representatives of the major stakeholders for these significant decisions. We request that the following be included in the final version of the RFP:

- All public comments on this RFP, and SED's responses, should be made publicly available prior to the RFP's release.
- A public opening of all applications received during each application period.

- A complete tabulation made publicly available of all RFP responses, with the name of the district and the number of students to be served.
- As stated above, a seat on the Phase II review team for a representative from local districts in which charter schools are proposed.
- A complete list made publicly available of all internal and external reviewers.
- All review comments should be publicly available prior to the award of any charter.
- All scores for each application should be made publicly available no later than the time of a charter award.
- All correspondence between applicants and SED should be provided to the local district no later than the time of a charter award.
- All internal audits of existing charters should be made publicly available in a timely manner.

Providing a sound, basic education to all students

Charter schools in Albany fail to provide equitable access to a sound, basic education for all students, especially the city's students with disabilities and English language learners. The RFP does not currently serve to advantage these two critical subgroups except where it would advantage a charter-school operator for meeting this important and state-mandated goal. Amended in May 2010, Subdivision 4 of Education Law §2851 includes the following:

> "(e) The means by which the charter school will meet or exceed enrollment and retention targets as prescribed by the board of regents or the board of trustees of the state university of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program which shall be considered by the charter entity prior to approving such charter school's application for renewal. **When developing such targets, the board of regents and the board of trustees of the state university of New York shall ensure … that such enrollment targets are comparable to the enrollment figures of such categories of students attending the public schools within the school district** …" (*emphasis added*).

For the purpose of this example, we will focus on a comparison of students with disabilities in Albany's charter schools and public schools.

Albany's 11 charter schools serve a total of 2,249 Albany students (according to information the charter schools provided to the district in October 2011, the most current data available). Within that student population, the 11 charters serve a total of 80 Albany students with disabilities (Table A). That ranges from less than 1 percent of the student population at the SUNY-approved Albany Achievement Academy (grades 5-8) to 8.7 percent at the SUNY-approved, boys-only Green Tech High (grades 9-12).

At the city's two SED-approved charter schools – the Brighter Choice elementary schools for boys and girls (both serving grades K-4) – 2.7 percent and 2.5 percent of the total enrollment, respectively, are students with disabilities.

The City School District of Albany serves 1,245 students with disabilities in a total student population of 8,661 students, or 14.4 percent.

Table A. Students with Disabilities in Albany Charter Schools

School	Grades	Approved by SED or SUNY	Number of Albany students*	Number of Albany Students with Disabilities	Percentage of Albany Students with Disabilities
Albany Community	K-5	SUNY	299	4	1.3%
Brighter Choice-Boys (ES)	K-4	SED	225	6	2.7%
Brighter Choice-Girls (ES)	K-4	SED	243	6	2.5%
Henry Johnson	K-4	SUNY	286	4	1.4%
Albany Achievement Academy	5-8	SUNY	134	1	0.7%
Albany Prep	5-8	SUNY	182	13	7.7%
Brighter Choice-Boys (MS)	5-8	SUNY	89	3	3.4%
Brighter Choice-Girls (MS)	5-8	SUNY	93	8	8.6%
KIPP Tech Valley	5-8	SUNY	248	5	2%
Albany Leadership	9-12	SUNY	174	6	3.4%
Green Tech	9-12	SUNY	276	24	8.7%
TOTALS-Charter			**2,249**	**80**	**3.6%**
TOTALS-District			**8,661**	**1,245**	**14.4%**

** Number of Albany students enrolled in Albany charter schools as of Oct. 1, 2011.*

We continue to be perplexed at the state's willingness to use public tax dollars to support schools that do not fully serve the communities in which they are located, in violation of state law. Failing to explicitly require prospective or current charter-school operators to clearly demonstrate how their schools will serve students with disabilities and English language learners in direct proportion to the percentages of these students in the local school district is harmful to students, families and communities.

Enrollment thresholds

It is well known that the City School District of Albany has the largest percentage of students enrolled in charter schools of any district in New York State – approximately 21 percent in the 2011-12 school year. We continue to assert that SUNY and SED consistently have failed to follow the fourth criterion of Education Law §2852, which specifically provides that an application may not be granted unless the charter entity finds that:

> "[I]n a school district where the total enrollment of resident students attending charter schools in the base year is greater than five percent of the total public school enrollment of the school district in the base year (i) granting the application would have a significant educational benefit to the students expected to attend the proposed charter school or (ii) the school district in which the charter school will be located consents to such application."

We are disappointed once again to note that the RFP does not include specific language to address the oversaturation of charter schools in Albany, or to safeguard against similar scenarios in other New York State communities.

Improving educational opportunities for all students in New York State is critical for our future. We recognize the great benefit of diverse approaches to education that provide families with options to choose the best environment to fit the needs of their children. We also recognize our own responsibility to do more to enhance the opportunities and achievement for all students in our school district. But we know that these goals cannot be accomplished – in Albany or any community in New York State – by forcing taxpayer-supported schools to operate under separate sets of rules that advantage one group of schools over another.

As SED and the Board of Regents prepare to move forward with the next generation of charter-school development in New York State, we ask that you fully address our concerns regarding need, impact, process, transparency, accountability and equity before issuing a final RFP. The future of our children is too important to be compromised by a process that settles for anything less.

Sincerely,

Daniel Egan
President
City School District of Albany Board of Education