

To: Charter School Leaders  
Charter School Governing Boards

From:  Sally Bacher, Executive Director, Office of Innovative School Models

Date: September 20, 2010

cc: Dr. John B. King, Jr., Senior Deputy Commissioner

### **Charter Schools Technical Advisory Charter Revisions**

---

When a charter school receives its original charter and/or any subsequent renewals of that charter from the Board of Regents, the Regents approve the charter school's broad academic and organizational plans for the term of the charter. Changes to those plans require a revision to the charter, with the approval of the Commissioner or Board of Regents, before the changes are effective and can be implemented. This document serves as the sole guidance on charter revisions for all schools directly authorized by the Board of Regents. It is being posted on the Department's Web site at <http://www.p12.nysed.gov/psc/> and is subject to periodic revision.

This Technical Advisory serves as a description of the process and deadlines for Charter Revisions for schools authorized by the Board of Regents. The Regents strongly advise all charter authorizers to establish a process and deadlines for review of charter revisions for submission to the Board of Regents for approval that is consistent with information contained in this document.

The Technical Advisory has three purposes:

1. Provide guidance to charter schools on the changes to their academic program or operations that require approval from the Commissioner or the Board of Regents for a revision to the school's charter before the school can implement the changes.
2. Outline the process that a charter school must follow to request a revision.
3. Inform charter schools of certain changes at the school level and the school governing board level that do not require revision but require timely notice to the Charter School Office.

*Please Note:* Charter schools located in New York City may have unique conditions related to space, governance, and community and family engagement. Please read this Technical Advisory carefully for guidance and direction, and check with the New York City Department of Education Division of Portfolio Planning for further information and guidance on unique conditions and circumstances affecting your school's charter.

## **I. Approval of Requests for Charter Revisions**

Education Law § 2852(7)(a) provides, in part, "a revision of a charter shall be made only upon the approval of the charter entity and the board of regents in accordance with the provisions of subdivisions five-a and five-b of this section." The Board of Regents delegated authority to the Commissioner of Education, through regulation, to approve certain requests for charter revisions on its behalf. This Technical Advisory describes revision requests that will go before the Commissioner for a determination whether to approve, and those revision requests that the Board of Regents will consider.

Revisions that fundamentally affect a school's mission, vision, educational philosophy, organizational structure, or educational program - material changes - must be approved by the school's authorizer and then submitted to the Board of Regents for consideration and final approval. Such revisions include significant changes to a charter school's:

- educational philosophy, mission, or vision;
- Significant governance or leadership structure;
- curriculum model or school design changes that are inconsistent with those approved in the current charter;

and also changes to a charter school's:

- location, if such change involves relocating to another school district;
- maximum enrollment (as set forth in the current charter);
- grades served (as set forth in the current charter);
- hiring or termination of a management company; or
- name

Please note that for charter schools located in New York City and sited in a building owned by the Department of Education, revisions that would result in a significant change in school utilization, including phase-out, grade configuration, re-siting or co-location, will also require preparation of an educational impact statement pursuant to Education Law section 2590-h(2-a) subject to approval by the Panel for Education Policy (PEP). Additional guidance on the PEP process is available through the New York City Department of Education and in proposed Chancellor's Regulation A-190.

Non-material changes and revisions to a charter school's operations that do not fundamentally alter its mission, organizational structure or educational program must be submitted to the authorizing entity, and then submitted to the Commissioner of Education for consideration and final approval. Such changes include, but are not limited to, changes to a school's:

- by-laws;
- schedule (e.g. length of school year, school week, or school day);
- admissions policy or enrollment process;

- code(s) of conduct, disciplinary codes, personnel policies, complaint policies, student/family/teacher handbooks;
- corrections and clarifications involving the mission statement or other sections of the charter that do not fundamentally affect the school's mission, organizational structure, or educational program; and are consistent with the school's charter application; or
- minor corrections and clarifications involving a school's organizational structure or organizational chart.

Non-material changes to a school's charter do not require a formal charter revision hearing. Charter schools receiving approval for revisions that will require transportation scheduling changes for districts are strongly encouraged to communicate these changes to districts as early as possible to allow districts to plan both budgets and transportation schedules. Failure to do so may jeopardize approval of the revision request.

## **II. Process for Review of Revisions Requests**

### **1. Request Deadlines**

Charter revision requests may be submitted at any time, with the following exception:

- Revision requests regarding enrollment increases, changes to grades served, or the district of location must be submitted to the Commissioner of Education no later than December 15 prior to the academic year in which the proposed revision will commence.
- For charter schools located in New York City, every effort should be made to coordinate and comply with the Division of Portfolio Planning. The State Education Department understands that many space allocation and school facilities decisions are not made until the Spring of each year. However, a school requesting to expand or expecting to re-locate must provide the NYC-DOE and the State Education Department sufficient evidence of thoughtful and appropriate planning with a charter revision request, as outlined below.
- Changes that arise by extenuating circumstances should be communicated promptly to the appropriate agency(ies), and a timeframe for submitting revision requests established within a reasonable time from when issue becomes apparent.

Charter schools are strongly encouraged to plan ahead regarding revision requests, particularly those of a material nature, and to communicate and consult with the Charter School Office when a revision request is anticipated.

### **2. Contents of a Revision Request**

The president/chairperson of a charter school governing board, or an individual authorized by the governing board, must submit the request to the Commissioner of Education through the Charter School Office. Requests must provide complete information as follows:

- Contact person
- Position of contact person
- Contact telephone
- Contact email
- School name and location
- Date / Year originally chartered
- Date(s) / Year(s) charter renewal was granted (if applicable)
- A description of what is being requested. State what currently exists in the charter and what change(s) are proposed.
- An explanation of the reasons for the requested revision
- A statement that the school governing board authorized the individual sending the letter to make the request on its behalf if the Board President/Chairperson is not the author of the letter
- The school governing board resolution
- Evidence that the required hearing(s) was held
- Proposed revised pages of the charter and any other supporting documentation; and
- Any other additional information that the Regents or Commissioner may require.

Requests for maximum enrollment increases and changes in grade span must provide answers to the questions in the criteria found at the end of this document.

Such requests must include the following:

- Contact person
- Position of contact person
- Contact telephone
- Contact email
- School name and location
- Date / Year originally chartered
- Date(s) / Year(s) charter renewal was granted (if applicable)
- Current maximum enrollment
- Current grade span
- Current students per grade
- Number of students requested (if applicable)
- Distribution of new students in school (if applicable - no grade span change)
- Proposed new grade span (if applicable)
- Distribution of students in school (if proposing new grade span)
- A statement that the school governing board authorized the individual sending the letter to make the request on its behalf if the Board President/Chairperson is not the author of the letter
- The school governing board resolution
- Evidence that the required hearing(s) was held
- Proposed revised pages of the charter and any other supporting documentation; and
- Any other additional information that the Regents or Commissioner may require.

### 3. Submission of a Request

The president/chairperson of a charter school governing board, or an individual authorized by the governing board, must submit the request to the Commissioner of Education, addressing all content in Section V below, as applicable for the revision request.

The request should be submitted in electronic format to:

charterschools@mail.nysed.gov

### **III. Criteria for Review of a Revision Request**

The Commissioner and the Board of Regents will consider a charter school's compliance with applicable state, federal, and local law. In addition, the Commissioner and the Board of Regents may consider evidence regarding the success of the school's academic program, the viability of the school as an organization, and the faithfulness of the school to the terms of its charter. The criteria used to evaluate requests for enrollment increases ask specific questions about these areas. Complete answers will serve to expedite the amendment process.

### **IV. Changes Requiring Timely Notice to the Charter School Office**

Currently, certain changes in a school's operations only require notice to the authorizer and the State Education Department Charter School Office, in accordance with flexibility in the existing approved charter. These include, but are not limited to changes in:

- individuals holding school leadership positions, such as an Executive Director or Principal;
- membership on the board of trustees;
- location of the school's facilities within the same district, subject to Department approval; and location of a school's facilities within the same Community School District or Borough, subject to the approval of the Chancellor of the City of New York, Panel for Education Policy, if applicable, and Department approval (for schools located in New York City);
- documentation of the school's compliance with state and federal laws, including but not limited to all fire, health, and safety laws and accessibility requirements, for a move to new facility or for renovations to the same facility;
- general contact information (phone number, mailing address, and email) for the school and the school's governing board.

Like all school districts and public schools in the state, charter schools are required to provide information to the State Education Department through the BEDS IMF (School Data form) and PMF (Personnel Data forms). School should contact (518) 474-7965 or e-mail [DATAQUEST@mail.nysed.gov](mailto:DATAQUEST@mail.nysed.gov) and visit the BEDS website with any questions about this process: <http://www.emsc.nysed.gov/irts/beds/>

## **V. Evaluation Criteria for Requested Changes in Maximum Enrollment and/or Grades Served and/or Curriculum Model or School Design Changes that are Inconsistent with those Approved in the Current Charter**

The following criteria define the basis on which the revision request will be evaluated:

### Section A: Statement of Need

1. How will this revision enhance or expand the educational opportunities currently available to the targeted student population?
2. How has the need for the revision request been determined?

### Section B: Educational Philosophy and Evidence of Academic Program Success

1. How does the educational program meet the diverse needs of individual students?
2. What evidence shows that the school's instructional approach has led to improved student performance?

### Section C: Curriculum (if also proposing to expand grades served)

1. What is the curriculum that will be used and how does it provide clear content and skills that are ambitious yet realistic for each grade or performance level?
2. Is the curriculum described in the amendment request aligned with the New York State Learning Standards?
3. How is the school's existing curriculum based on rigorous academic standards, in terms of content and implementation?
4. Who will be in charge of implementing this request if granted?

### Section D: School Characteristics

1. How is the revision request consistent with the school's mission and education program?
2. How will the school's culture and norms be maintained?

### Section E: Enrollment and Recruitment

1. Can the school demonstrate that there is sufficient demand for existing seats at the school? How?
2. What will be the fiscal impact on the host district?

### Section F: Capacity

1. How will the school's staff and governing board implement the request effectively and evaluate its success?
2. Has the school managed public funds effectively and responsibly?
3. Does the school's governance model utilize viable processes for policy development and a strong plan for ongoing Board self-evaluation and development?

If also partnering with or contracting with a Management Company:

1. Is the Management Company's educational philosophy and academic program consistent with the school's mission?

2. Is there evidence that the Management Company has demonstrated positive academic results and responsible fiscal management?
3. Is there evidence of a clear understanding and agreement about the respective roles and responsibilities of the Board and the proposed Management Company, and that the school governing board retains the authority to hire and fire the Management Company?
4. Is there evidence of a clearly defined, performance-based relationship between the management Company and the school's governing board?

#### Section G: Facilities

1. What are the options for an adequate school facility that is accessible to and will accommodate all students?
2. Is there evidence that the school has secured appropriate and adequate facilities for the proposed expansion for subsequent school years?
3. Will the change in enrollment alter the Building Utilization Plan (BUP) in cases where school is located in a NYC-DOE facility?

#### Section H: School Finances

1. What financial resources are necessary to implement the school's expansion?
2. What are the projected sources of revenue that are adequate to ensure the fiscal viability of the school?

#### Section I: Action Plan for Implementation

1. What is the proposed strategy and timeline that will lead to a successful implementation of the proposed changes?
2. Provide information that defines an action plan that is specific and consistent with the proposal's objectives.

#### Section J: Compliance

1. How does the school identify, assess, and serve special student populations?
2. Does the school maintain an enrollment process that is open, fair, and in accordance with charter school statute?
3. Has the school met its enrollment and retention targets for students with disabilities, ELLs and students living in poverty? What outreach and recruitment efforts has the school employed to ensure that it will meet these enrollment and retention targets?

Last updated September 21, 2010