

SUBJECT: CHARTER SCHOOLS

A charter school is a public school financed through public local, state and federal funds that is independent of local school boards. Although the New York Charter Schools Act of 1998 designates certain "charter entities," only the local School District may approve the conversion of an *existing public school* to a charter school. Prior to any such conversion to a charter school, the parents/guardians of the majority of the students then enrolled in the public school must have voted in favor of the conversion.

For charter schools approved by the Board of Trustees of the State University of New York or the Board of Regents, the local School District within which the charter school is located has the right to visit, examine, and inspect the charter school for compliance with all applicable laws, regulations, and charter provisions.

Charter schools may be located in part of an existing public school building, a private work site, a public building, or any other suitable location. At the request of the charter school or prospective applicant, the School District shall make available a list of vacant and unused school buildings and vacant and unused portions of school buildings, including private school buildings, within the School District which may be suitable for the operation of a charter school.

The School District's high school(s) may accept academic credit from students who transfer from the charter school as authorized and/or permitted in accordance with law, Commissioner's Regulations, and local District standards. Either the charter school or the local School Board may issue a high school diploma upon students' graduation from a charter school depending on the charter school's relationship with the School Board.

For the purposes of the Textbook Loan Program defined in Education Law Section 701, the Library Materials Loan Program defined in Education Law Section 711, and the Computer Software Loan Program defined in Education Law Section 751, and Health and Welfare Services defined in Education Law Section 912, students attending a charter school have the same access to textbooks, software and library materials loaned by the School District as if enrolled in a nonpublic school. Within available School District inventory and budgetary appropriations for purchase of such materials, the School District is required to provide such materials on an equitable basis to all public school students and to all nonpublic school and charter school students who are residents of the District (Textbook Loan Program) or who attend a nonpublic or charter school in the School District (Software and Library Materials Loan Programs). The base year enrollment of students in the charter school may be claimed by the School District for the purposes of Textbook, Software and Library Materials Aids, in the same manner as nonpublic school enrollments are claimed.

For the purpose of transportation, charter schools are considered nonpublic schools, which means that students attending charter schools who reside within a fifteen (15) mile radius of the charter school [or a greater radius if the voters of the *School District of residence* have approved nonpublic transportation for more than fifteen (15) miles] will receive transportation from their *School District of residence* on the same basis as nonpublic school students; that is, subject to the applicable

(Continued)

SUBJECT: CHARTER SCHOOLS (Cont'd.)

minimum mileage limits for transportation in the *School District of residence*, and the requirement of the timely filing of the request for transportation pursuant to Education Law Section 3635(2).

A student *cannot* be dually enrolled in the charter school and District schools. However, the *School District of residence* of students attending a charter school may, but is not required to, allow such students to participate in athletic and extracurricular activities.

Special Education programs and services shall be provided to students with disabilities attending a charter school in accordance with the individualized education program recommended by the Committee or Subcommittee of Special Education of the student's *school district of residence*. The charter school may arrange to have such services provided by the *school district of residence* or by the charter school directly or by contract with another provider. Where the district of residence provides the special education programs or services, they will be provided in the same manner as provided to students in other public schools in the District. This includes the provision of supplementary and related services on site to the same extent the District's policy and practices provide such services on the site of other public schools.

All employees of a public school *converted* to a charter school are included within the negotiating unit for the local school district, *but* the collective bargaining agreement of that negotiating unit may be *modified by a majority vote* of the members who work at the charter school, with the approval of the Board of Trustees of the charter school.

Instructional employees of a charter school which has *not* been converted from an existing public school and which has more than two hundred fifty (250) students during the *first year* of instruction will be represented in a separate negotiating unit at the charter school by the same employee organization representing similar employees in the local school district. Employees *may* be included in the Teachers' Retirement System and other retirement systems open to employees of the School District. Financial contributions for such benefits are the responsibility of the charter school and the charter school's employees.

Teachers employed by the School District may apply for a leave of absence for purposes of teaching at a charter school. Approval for such leave of absence for a period of two (2) years or less shall not be unreasonably withheld. If such approval is granted to a teacher by the District, the teacher may return to teach in the School District during such period of leave without the loss of any right of certification, retirement, seniority, salary status, or any other benefit provided by law or by collective bargaining agreement. If an appropriate position is unavailable, the teacher's name shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position similar to the one such teacher filled in the District immediately prior to the leave of service.

(Continued)

SUBJECT: CHARTER SCHOOLS (Cont'd.)**Charter School Finances**

The enrollment of students attending charter schools shall be included in the enrollment, attendance and, if applicable, count of students with disabilities of the school district in which the charter school student resides. The charter school shall report all such data to the school districts of residence in a timely manner for reporting to the State Education Department. The school district of residence shall pay directly to the charter school for each student enrolled in the charter school the basic tuition as determined by the Commissioner of Education as set forth in Education Law Section 3602(1)(f). The New York Charter Schools Act requires that the *school district of residence* forward such payments to the charter school in six (6) substantially equal installments each year beginning on the first business day of the months of July, September, November, January, March, and May.

Approved operating expenses include the essential operating cost of the School District. Excluded are costs for transportation, debt services, construction, tuition payments to other school districts, some BOCES payments, cafeteria or school lunch expenditures, balances and transfers, rental income from leased property, and certain other limited categories unless otherwise authorized pursuant to the federal grant program, *State Charter School Facilities Incentive Program*.

Charter school financing in the first year of operation shall be based on the number of students projected to be served by the charter school and the approved operating expenses of the district *of residence* of those students. Adjustments will be made in each subsequent year based upon the final report by the charter school of actual enrollment.

Federal and State aid attributable to students with disabilities are required to be paid to a charter school by the school district of residence for those students attending such charter school in proportion to the services the charter school provides such students directly or indirectly. Payment of federal aid attributable to a student with a disability attending a charter school must be made according to the requirements in 20 United States Code (USC) Sections 76.85-76.799 and Section 300.209 of Title 34 of the Code of Federal Regulations (CFR). Failure by the School District to make such required payments will result in the State Comptroller deducting the required amounts from State funds due to the District and paying them to the charter school.

Neither the School District, the charter entity, nor the State is liable for the debts of the charter school.

Notice and Hearing Requirements

The New York State Board of Regents is required to provide the School District information on the charter school process. If a charter school is proposed, the charter entity and the Board of Regents *shall notify the school district in which the charter school is located and public and nonpublic schools in the same geographic area* as the proposed charter school at each significant stage of the chartering process.

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SUBJECT: CHARTER SCHOOLS (Cont'd.)

Such notification shall be provided by the charter entity within thirty (30) days of its receipt of an application for formation of a new charter school or for renewal of an existing charter school and at least forty-five (45) days prior to initial approval of the charter application by the charter entity.

Before a charter is issued, revised or renewed, the school district in which the charter school is located shall hold a public hearing to solicit comments from the community potentially impacted by the proposed charter school. When a revision involves the relocation of a charter school to a different school district, the proposed new school district shall also hold a hearing. The School District shall, at the time of its dissemination, provide the State Education Department with a copy of the public hearing notice.

No later than the business day next following the hearing, the School District shall provide written confirmation to both the charter entity and the State Education Department of the date and time the hearing was held. Copies of all written records or comments generated from the hearing shall be submitted to the charter entity and the State Education Department within fifteen (15) days of the hearing.

The School District shall also be given the opportunity to comment on the proposed charter to the charter entity. The charter entity shall consider any comments raised and submit them to the Board of Regents with the application for issuance, revision or renewal of a charter.

In the event the School District fails to conduct a public hearing, the Board of Regents shall conduct a public hearing to solicit comments from the community in connection with the issuance, revision or renewal of a charter.

20 United States Code (USC) Sections 76.785-76.799
State Charter School Facilities Incentive Program, 34 Code of Federal Regulations (CFR) Part 226
34 Code of Federal Regulations (CFR) Section 300.209
Education Law Article 56 and Sections 3602(11) and 3635
8 New York Code of Rules and Regulations (NYCRR) Parts 100 and 119