



Charter Schools Institute
The State University of New York

April 25, 2011

MEMORANDUM

To: SUNY Authorized Charter School Leaders

From: Ralph A. Rossi II, Vice President and General Counsel

Subject: Procedures Regarding New, Changing or Expanding Facilities for Fall 2011

We are writing with a reminder regarding the procedures for establishing, changing or expanding into new facilities.

Please note that for the four SUNY authorized charter schools approved to date via the Request for Proposal Process,¹ the May 2010 amendments to the Charter Schools Act require additional, more stringent requirements regarding charter school facilities which are marked below by an asterisk (*). Schools with charters granted under the “old” process, which applied prior to August 2, 2010 using SUNY’s New School Application Kit, can continue to largely follow the law and guidance of previous years as outlined in this memo.

Note that regardless of when your charter was issued, **all schools that are proposed to be in New York City Department of Education collocated space that intend to spend more than \$5,000 in renovations will have to follow additional requirements as described below.**

Charter Requirements

Pursuant to Paragraphs 2.17 (New Facilities) and 2.18 (Change in Location) of your school’s Charter Agreement, whether your school is opening for the first time or moving or expanding, the school must take the actions noted below and provide the Charter Schools Institute with related documentation, prior to **May 15, 2011**.

Your school must complete each item below that is applicable:

- 1) Enter into a lease, purchase agreement, mortgage or other contract to occupy an identified facility suitable for school use, and for which all rights and permissions necessary to operate a school are or will be secured. (Please note that the school’s commitment to such lease or other agreement must be made contingent upon the Institute’s approval of the facility pursuant to Paragraphs 2.17-18 of the Charter Agreement. This fact should be explicitly communicated to the landlord or other party to the real estate transaction.).

¹ Upper West Success Academy Charter School; Bronx Success Academy Charter School 3; ROADS Charter School 1; and ROADS Charter School 2. Going forward, which part of the Act your school’s charter was granted under will determine what law applies to your school’s facilities.

- 2) Provide to the Institute a copy of the executed lease or other facility agreement.
- 3) Provide to the Institute a copy of a letter from the school's independent (non-management organization) attorney stating he or she has reviewed the facility agreement.
- 4) Provide to the Institute the Facility Completion Schedule described in Paragraph 2.17 of the Charter Agreement, which consists of the following:

- a. A detailed schedule of the steps necessary to make the school ready for commencement of instruction, including the dates upon which such steps will be completed.

Note this does NOT mean only the steps necessary to obtain an approved Certificate of Occupancy ("C of O") for school use (space type "G" in New York City), which is a minimum requirement for children to be in the school and a statutory requirement (Education Law § 2851(2)(j)), but also includes things like renovations and installation of wiring and computing infrastructure.

- b. The permits and licenses required for the school to legally operate in the proposed facility, including, but not limited to, a C of O, and the date when each permit will be obtained.
 - i. For schools to be sited in NYCDOE space that intend to spend more than \$5,000 on renovations, this would include the letter from the NYC Schools Chancellor stating the school may make more than \$5,000 in capital improvements to the NYCDOE space and that the NYCDOE will match the amount of the improvements for each non-charter school in the building.
 - ii. For schools with charters obtained through the RFP process that will be located in NYC, the school must not only meet the NYC Building Code and obtain a C of O indicating "School Use G," but also comply with the State Education Department's ("SED's") health, safety and sanitary requirements applicable to district school facilities (which may be found at 8 NYCRR Part 155 and Education Law § 409. Note that SED has not published any guidance on this issue to date.*
 - iii. For schools with charters obtained through the RFP process that will be located outside of NYC, the school must obtain the C of O directly from SED and meet all the requirements of Education Law § 409 (including all ADA new construction requirements) of a district school.*
- c. A detailed construction or renovation timeline, if applicable, that describes the work to be done and when it will be done.
- d. A detailed budget for preparing the School Facility for instruction. The budget should identify the source of funds to be used and include an estimate of all costs to be incurred to prepare the School Facility. Such costs may include construction or renovation contracts, purchase of equipment, furniture and fixtures and expenses for signage, cleaning after renovation, etc. Program costs such as instructional materials, textbooks, recruitment, etc. need not be accounted for in the budget as they do not relate to the preparation of the School Facility.

The budget should be in a form consistent with the Institute's *Guidance: Yearly Budgets and Quarterly Reports* (available at <http://www.newyorkcharters.org/schoolsFiscalOperation.htm>). If the facility cost varies significantly from the facility costs estimates in the school's prior budget please provide (or the Institute may request) a new budget for the school year and/or remainder of the charter term. For example, if the school originally intended to pay rent, but will now be purchasing a building, amended budgets should be submitted.

Please note that the fact that the NYCDOE will not provide a lease or memorandum of understanding to your school does not alleviate the school from following the other requirements of the law and charter.

In addition to the above information, please provide all new phone and fax numbers, mailing address and grade distribution between facilities, if applicable. If you have any questions regarding school facilities, please contact Maureen Murphy via email at: maureen.murphy@suny.edu or by phone at: 518/433-8277, ext. 2045.

Copy: Board Chairs