



Response to Public Comments

January 2012 SUNY Request for Proposals (RFP)

- To Establish New, New York State Charter Schools; and
- For Existing SUNY Authorized Charter Schools to Operate Additional School(s)

*Collected by the SUNY Charter Schools Institute on behalf of the
Board of Trustees of the State University of New York*

Issued: January 3, 2012

Defined Terms

Act – The Charter Schools Act of 1998, as amended

CEC – a Community Education Council in New York City

CSE – Committee on Special Education or “IEP Team” under the IDEA regulations

DOE – The New York City Department of Education

ELL – English Language Learner

FAPE – Free and Appropriate Public Education as defined in the IDEA

FRPL – federal Free and/or Reduced Price Lunch Program

IEP – An Individualized Education Program as required by the IDEA

IDEA – the federal Individuals with Disabilities Education Act

Institute – The Charter Schools Institute of the State University of New York

LEA – Local Educational Agency as defined in the IDEA

N-PCL – The New York State Not-for-Profit Corporation Law

RFA – The Requests for Amendment process whereby the Institute works with charter school applicants to correct and/or

provide additional detail to an application to resolve Institute concerns and assure compliance with the Act and all applicable laws, rules and regulations before it is recommended to the SUNY Trustees for approval.

RFP – The Request for Proposals to Establish New York State Charter Schools

Proposal – The document submitted in response to a RFP by an applicant seeking to establish a New York State charter school

Regents – The Board of Regents of the University of the State of New York

SED – The New York State Education Department

SUNY Trustees – The Board of Trustees of the State University of New York

NOTE: All page references are to the Draft RFP published on the Institute website.

Comments/Discussion/ Changes as Noted

Comment 1: A commenter stated that he understands the Institute’s intent in offering a streamlined process for qualified applicants proposing charter school replication, and he appreciated the high academic criteria necessary to utilize this process. However, he suggested that, in

order to qualify to use the streamlined application process, existing schools should also be required to demonstrate that they have met their enrollment and retention targets.

Discussion: Technically, pursuant to the May 2010 amendments to the Act, charter schools are required to meet certain enrollment and retention targets for certain populations of students deemed to be at-risk of academic failure. Such enrollment and retention targets are required to be set by the authorizer at two distinct points in the life of a charter school: when a school is first chartered pursuant to subdivision 9-a of section 2852 of the Act, or (for all RFP and non-RFP schools) when a school is renewed. Once the targets are set, a school can only meet those targets at its next renewal. While the Institute will be closely monitoring schools’ progress toward meeting targets, the soonest that any charter school would have to meet its enrollment and retention targets is after the 2015-16 school year (i.e., those schools that were chartered pursuant to the Institute’s August 2010 RFP). At this time, the enrollment and retention targets are not a viable option to consider for a school seeking to utilize the streamlined application process. We note however, that the RFP scores proposals based on the ability of an applicant to meet the targets

and on how well it would serve the target and other at-risk populations.

Changes to RFP: None.

Comment 2: A commenter suggested that page 42 of the RFP is unclear regarding when the Guidance Handbook would be available and requested that it be available as soon as possible.

Discussion: The Institute is aware of the interest that potential applicants have in reviewing and using the Guidance Handbook. However, at the time of the Draft RFP's release to the public for comment, the Guidance Handbook was still being updated to ensure consistency with all applicable state and federal laws and regulations, and to provide further information regarding replication. The Institute will release the Guidance Handbook along with the final version of the RFP and response to comments on January 3, 2012.

Changes to RFP: None

Comment 3: A commenter suggested that the RFP is unclear about the expectations of the required curriculum framework as it relates to the implementation of the Common Core State Standards (CCSS) in science and social studies and suggested that the Institute only require alignment to

the CCSS for English language arts and mathematics.

Discussion: The CCSS include literacy standards for science and social studies. These do not replace the current standards for these subjects, but supplement them. The expectation is that these standards be addressed by applicants. A full discussion about curriculum requirements is contained in the Guidance Handbook. It is incumbent upon an applicant to design an academic program that takes into account these standards as the school sees appropriate, whether that be through explicit courses in social studies and science or integration into other subject areas.

Changes to RFP: None.

Comment 4: A commenter noted that the multiple review cycles outlined in the RFP may lead to applicants who are unsuccessful in the Spring Review Cycle resubmitting their application in the Summer Review Cycle. The commenter expressed concern that such a resubmission may represent a savvy response to the Institute's concerns rather than an application that demonstrates the underlying capacity of the applicant. The commenter suggested that the RFP and/or Guidance Handbook should make it clear that a resubmission will not involve a

"corrections" style dialogue between the applicant and Institute.

Discussion: When an application to establish a charter school is rejected by the Institute, the applicant is thereafter furnished with a letter of justification outlining, in general terms, a summary of the deficiencies noted by the reviewers. When an applicant then resubmits a similar proposal during a later review period, the Institute will consider the changes made to the Proposal by the applicant, but that does not supplant a full review of the application. The underlying capacity of the applicant, founding school group, and any identified potential school leaders are always considered prior to the Institute's recommendation for approval to the SUNY Trustees.

Changes to RFP: A footnote has been added as appropriate on page 3 of the RFP that provides a reminder to applicants about the position of the Institute with respect to the resubmission of proposals.

Comment 5: A commenter stated that the multiple review cycles outlined in the RFP may "complicate the problems of logistics and fairness that already surround prospective charter schools' efforts to procure the use of NYC DOE facility." The commenter suggested that the Institute make its position or non-position clear in

the Guidance Handbook and describe any efforts to coordinate with DOE.

Discussion: The Institute and SUNY Trustees are not involved in the process by which the DOE allocates facility space. If an applicant or existing charter school seeks facility space from the DOE, it is entirely incumbent upon the applicant and/or charter school to facilitate that relationship. In such circumstances, the only role the authorizer plays, pursuant to subdivision 2853(3)(a) of the Education Law, is to “hold a public hearing for purposes of discussing the location of the charter school.” Thereafter, the SUNY Trustees also have final approval over whether any charter school facility is approved for use.

In the opinion of the Institute, the Summer Review Cycle provides ample time for the required Panel for Education Policy (“PEP”) process required for the allocation of DOE facility space. This opinion is buttressed by the fact that charter schools that were formally chartered as late as December have successfully navigated the PEP process and secured DOE facility space in the subsequent calendar year. Furthermore, the Guidance Handbook contains additional information for applicants regarding the potential availability of DOE facility space.

Changes to RFP: None.

Comment 6: A commenter expressed concern that the late timing of the Summer

Review Cycle would significantly restrict the “lead time” available before approved schools would open. The commenter requested that the Institute acknowledge this consideration in the Guidance Handbook.

Discussion: According to the timelines presented in the RFP, a successful applicant applying in the Summer Review Cycle would be approved at the September 2012 meeting of the SUNY Trustees. Once approved by the SUNY Trustees, the proposed charter must thereafter be approved by the Regents no later than December 31 in the year which the Proposal was submitted. Given the changes to the Act, this timeline provides significantly more time to prepare for opening than was previously available, as a charter school could have been approved as late as March 15 and still be permitted to open in the succeeding calendar year. In the opinion of the Institute, the approval of a Proposal at the September 2012 SUNY Trustee meeting will provide ample time for strong and viable applicant groups to open a charter school in the fall of 2013.

Changes to RFP: None.

Comment 7: A commenter noted that the introduction of a streamlined process for qualified applicants proposing a charter school replication, particularly the

definition of replication, is a good idea and appropriately conservative given the complexities involved.

Discussion: The Institute thanks the commenter for the positive feedback regarding its approach to charter school replication. The May 2010 changes to the Act permitted, for the first time, an education corporation to operate more than one charter school. In releasing the 2012 RFP, the Institute has endeavored to take a thoughtful approach to charter school replication, and has attempted to create a streamlined process by which high-performing charter schools can replicate their success. The Institute earned two competitive grants from the National Association of Charter School Authorizers to support its development of a rigorous, policy-based approach to charter school replication. Additional details are available on the Institute’s website at: www.newyorkcharters.org/conference/PolicyMatters.htm.

Changes to RFP: None.

Comment 8: A commenter suggested that the regression analysis used as a qualification for the streamlined replication process should be linked in the RFP and explained in the Guidance Handbook due to some applicants’ unfamiliarity with the analysis.

Discussion: At this time, only existing SUNY-authorized charter schools may utilize the streamlined application process for replicating high performing charter schools. The regression analysis that results in an Effect Size is a component of the Accountability Plan of all existing SUNY-authorized charter schools with applicable grades. Therefore, any applicant proposing to utilize the streamlined application process should be familiar with the analysis and metric. However, SUNY would like to make it easier for applicants to know if they are eligible for the streamlined process.

Changes to RFP: The Institute has added additional information on page 7 of the RFP to define Effect Size more clearly and how the Institute’s regression analysis results in an Effect Size for English language arts and mathematics. In addition, a table showing Effect Sizes for all SUNY charter school has been placed into the Guidance Handbook.

Comment 9: A commenter suggested three clarifications to the college tracking requirement for high schools to use the streamlined replication process. The commenter inquired about whether or not such a high school would be required to have four enrolled classes to be eligible. In addition, the commenter asked whether the “systems in place” could include those that have been planned but not tested. Finally, the commenter suggested that

Footnote 2 on page 7 mentions systems to “support students as they transition to college” which seems to be different than either admittance help or matriculation tracking.

Discussion: As noted in the response to Comment 8, at this time, for the purposes of this RFP, only existing SUNY authorized charter schools may utilize the streamlined application process for replicating high performing charter schools. Any existing SUNY-authorized high school proposing to utilize the streamlined application process must have enrolled at least four classes by virtue of the two eligibility criteria, namely that: (i) 75% of students in the second year of a cohort must have passed three or more Regents Examination in two of the last three years, and (ii) 75% of students in the most recent graduation cohort must have graduated from the school in four years. Given these criteria, such a school must have already graduated students. Therefore, applicants seeking to utilize the streamlined application process should have existing systems for assisting students seeking to gain admittance into college and track matriculation in place as opposed to merely having plans to do so. Furthermore, such applicants must be able to demonstrate how the school plans to support students as they transition to college as described in the RFP, which is different than admissions assistance or matriculation tracking.

Changes to RFP: The Institute has modified the RFP on page 8 to more clearly define the eligibility criteria for existing SUNY-authorized charter high schools that seek to replicate using the streamlined application process. Specifically, applicants must demonstrate that they are currently “supporting students as they transition to college.”

Comment 10: A commenter suggested that the “leadership and management” category of the Preference Scoring Criteria on page 12 should be moved into the top 3 of the list due to its role as a “vital, but underappreciated requirement for charter school success.”

Discussion: The Institute’s position is that all of the preference criteria are vital to the success of a charter school, and they are not organized in the RFP on the basis of their importance. The Institute further notes that the explicit statutory purpose of the preference criteria is to grant priority in the event that more applicants meet the SUNY Trustees criteria for approval than available charters. Due to the explicit focus on raising student learning and achievement in the Act, the Institute has assigned additional weight to the components of the proposal that align directly to the academic program, as opposed to overall fiscal and organizational capacity, but only as it relates to the scoring

rubric. Thus, while overall fiscal and organization capacity are given less weight in calculating priority, these elements are still of vital importance to a successful charter school and must still meet the high standards established by the SUNY Trustees.

Changes to RFP: None.